

SPECIAL ADJUSTMENT BOARD NO. 947

Award No. 24
Case No. 24

PARTIES
TO
DISPUTE

Brotherhood of Maintenance of Way Employees
and
Southern Pacific Transportation Company (Western
Lines)

STATEMENT
OF CLAIM

That the Carrier's decision to suspend Claimant from its service for a period of thirty (30) days, from May 28 through June 26, 1986, was unduly harsh, in abuse of discretion and in violation of the current Agreement.

That because the Carrier failed to prove the charges by introducing substantial evidence that it now be required to compensate Claimant for all wage loss suffered and remove the charges from his record.

FINDINGS

Upon reviewing the record, as submitted, I find that the Parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended, and that this Special Board of Adjustment is duly constituted and has jurisdiction of the Parties and the subject matter; with this arbitrator being sole signatory.

After a formal hearing held on June 5, 1986, the Claimant was held responsible and suspended thirty (30) days for failure to report an injury as required by Rule 806 of the Maintenance of Way and Structures Rules and Regulations which reads in part:

806 Reporting: All cases of personal injury while on duty, or on company property must be promptly reported to proper officer on prescribed form . . .

The injury occurred on May 24, 1986 at 3:00 a.m., while the Claimant was the Foreman of Extra Gang 1 at Bridge, Utah. While drilling holes in the rail, the Claimant's thumb was caught between the gage pin and the drill. He did not report the accident to an officer until the following Tuesday, when he reported it to Mr. Burton.

The Claimant has a relatively short tenure with the Carrier. He was first employed on October 6, 1983. He was promoted to Foreman on October 15, 1984. Although he has a good record, we find he does warrant some discipline in this case. First, this arbitrator has held in previous cases the rule established by the Carrier relative to reporting injuries is fair and reasonable. It is understandable when an employee is reticent to report minor injuries and as I have stated in the past, it is often far easier to view an injury in retrospect than at the time it occurs. However, in this case we have a Foreman who has a somewhat greater responsibility to be familiar with the rules. Admittedly, the Claimant's relative inexperience is a mitigating factor. In addition, it is evident the Employee was injured as he, and others, described. There was no apparent attempt on the part of the Claimant to derive inordinant gain from the situation, he never even missed work as a result of the injury.

Considering all of these things, I feel the penalty, especially for a first offense, is excessive.

AWARD

The Claim is sustained in part. The Claimant is to be suspended for a period of five (5) days. He is to be reimbursed for any wage loss in excess of this five (5) day suspension.

ORDER

The Carrier shall comply with this Award within thirty (30) days of the date of its submission.


Carol J. Zamperini, Neutral

Submitted:

September 23, 1986
Denver, Colorado