

SPECIAL ADJUSTMENT BOARD NO. 947

Claimant - I. H. Briones
Award No. 65
Case No. 65

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 one (1) day was excessive, unduly harsh and in abuse of discretion, and in violation of the terms and provisions of the current Collective Bargaining Agreement.

That because of the Carrier's failure to prove and support the charges by introduction of substantial bona fide evidence, that Carrier now be required to compensate Claimant for any and all loss of earnings suffered, and that the charges be removed 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.

On January 11, 1988, the Claimant received a formal letter from the Carrier advising him of their determination that evidence adduced at a formal hearing held on November 30, 1987,

was sufficient to establish he had violated Rules A and I of the Rules of the Maintenance of Way and Structures and Rules 5001 and 5028 of the Safety Rules governing employees with the Maintenance of Way and Structures Department. The Carrier cited those sections of the rules which read:

Rule A: Safety is of the first importance in the discharge of duty. Obedience to the rules is essential to safety and to remaining in service.

Rule I: Employees must exercise care to prevent an injury to themselves. . . .they must be alert and attentive at all times when performing their duties and plan their work to avoid injury.

Rule 5001: Safety is of the first importance in the discharge of duty.

Rule 5028: Hands, feet and all other parts of the body must be kept in a position where they cannot be struck by, caught under or between materials, tools or equipment.

While working as a compressor operator on November 11, 1987, the Claimant was attempting, basically on his own, to unload and set up a rail puller when his finger became caught between the cylinder handle and the bullhead handle. The finger was badly scraped and a subsequent examination proved it had been fractured.

The Claimant's own testimony revealed he was familiar with the manner in which he was supposed to handle the rail puller. He was aware of the dangers involved and knew help was required in order to properly unload and set up the equipment. Instead of getting adequate assistance, he attempted to do the work

himself. This resulted in an injury to his finger.

The Claimant has a fairly good work record. However, he has been warned about his injuries and has been counseled and/or disciplined about other rule violations. It is because the Claimant apparently knew how he was supposed to handle the rail puller and because of previous warnings, that the Board feels a one (1) day suspension was not unreasonable.

AWARD

The claim is denied.


Carol J. Zamperini, Neutral

Submitted:

May 12, 1988
Denver, Colorado