

SPECIAL BOARD OF ADJUSTMENT NO. 986

Case No. 107

Docket No. NEC-BMWE-SD-2253D

PARTIES: Brotherhood of Maintenance of Way Employees

TO :

DISPUTE: National Railroad Passenger Corporation (Amtrak)

DISPUTE: Claim of the Organization that:

- 1) Claimant's alleged March 2, 1988, injury is a re-injury from a November 2, 1987, incident and he promptly reported it when he was aware of it.

FINDINGS:

Claimant S. Celinto was employed as a trackman by Carrier. By letter dated March 7, 1988, Claimant was notified to attend a trial in connection with the following charge:

"In that on March 2, 1988, you were in violation of Amtrak General Rule of Conduct, Rule C, which reads in part, 'Employees will promptly report illness or injury to themselves... to their supervisor' when you failed to notify your foreman of your injury until the next morning (March 3, 1988).

The trial was held on July 7, 1988, and as a result Claimant was notified by letter dated July 20, 1988, that he was found guilty of the charge and was assessed the discipline of five (5) days suspension. The Organization thereafter filed a claim on Claimant's behalf, challenging his dismissal.

This Board has thoroughly reviewed the evidence and testimony in this case and we find that there is sufficient evidence in the record to support the finding that the Claimant was guilty of failing to promptly report his injury. The record is clear that after the alleged accident, he worked his entire tour of duty without mentioning the injury to anyone. It was not until the following morning that he mentioned it. The record is also clear that the Claimant was aware

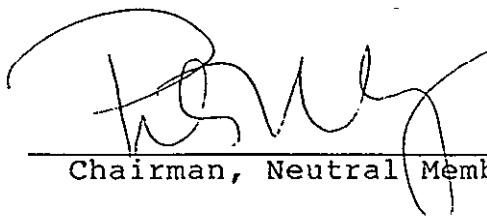
of the rule requiring the prompt reporting of any injuries on the job.

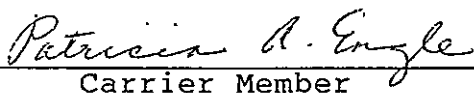
Once this Board has determined that there is sufficient evidence in the record to support the guilty finding, we next turn our attention to the type of discipline imposed. This Board will not set aside a carrier's imposition of discipline unless we find the carrier's action to have been unreasonable, arbitrary, or capricious.

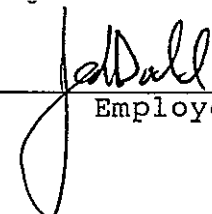
In this case, the Claimant received a five day suspension for not complying with the rules. Given the nature of the wrongdoing and his previous work record, this Board cannot find that that action by the Carrier was unreasonable. Therefore, the claim must be denied.

Award:

Claim denied.


Chairman, Neutral Member


Carrier Member


Employee Member

Date: 2/22/90