

SPECIAL BOARD OF ADJUSTMENT NO. 986

CASE NO. 117

DOCKET NO. NEC-BMWE-SD-2453D

PARTIES: BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
TO :
DISPUTE: NATIONAL RAILROAD PASSENGER CORPORATION (AMTRAK)

DISPUTE: Claim of the System Committee of the Brotherhood:

1. The five-calendar day suspension of Claimant John D. Harrison for alleged violation of N.R.P.C. Rules of Conduct Rules B and D on February 8, 1989, was unwarranted.

2. The Carrier has not given the proper consideration to the facts in this case and has acted viciously towards the Claimant.

3. The Claimant should be exonerated of this charge and his record concerning this matter should be expunged.

FINDINGS:

Claimant John D. Harrison was employed by the Carrier as a trackman at Baltimore, Maryland.

On February 15, 1989, the Carrier notified the Claimant of the following charges:

Violation of N.R.P.C. Rules of Conduct Rules B and D

Specification: In that on Wednesday, February 8, 1989, you were a passenger in Vehicle AA64394, not wearing a seat belt when you sustained a personal injury, contrary to Amtrak Safety Rule and Instruction 4239(a)(b).

After one postponement, the disciplinary investigation was held on March 23, 1989. On April 7, 1989, the Carrier notified the Claimant that he had been found guilty of all charges and was assessed discipline of a five-calendar day suspension. On April 18, 1989, the Claimant filed an appeal of that discipline, which appeal was denied by the Carrier on May 17, 1989. Thereafter, the Organization filed a claim on Claimant's behalf, challenging his suspension.

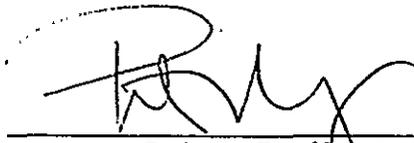
This Board has reviewed the evidence and testimony in this case and we find that there is sufficient evidence in the record to support the finding that the Claimant failed to wear a seat belt in violation of the Carrier Rules B and D.

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 its action to have been unreasonable, arbitrary, or capricious.

A five day suspension is the usual discipline for failing to wear a seat belt. This Claimant has a previous suspension for a violation of a safety rule. This Board cannot find any reason to amend the action of the Carrier. Therefore, the claim will be denied.

Award

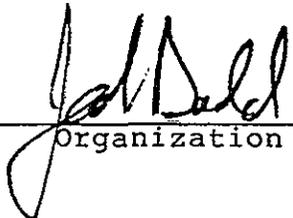
Claim denied.



Peter R. Meyers
Neutral Member



Patricia D. Engle
Carrier Member



John Dadd
Organization Member

10-1-90