

SPECIAL BOARD OF ADJUSTMENT NO. 986

Case No. 82

Docket No. NEC-BMWE-SD-1987D

PARTIES: Brotherhood of Maintenance of Way Employees

TO :

DISPUTE: National Railroad Passenger Corporation (Amtrak)

FINDINGS:

Claimant J.C. Wilson was employed as a trackman by Carrier in Baltimore, Maryland. On August 18, 1987, Claimant was notified to attend a formal investigation of the charge:

Violation of Amtrak Rules of Conduct, Rule B, which reads in part: "Safety is of first importance in the operation of the railroad and therefore, is the most important aspect of an employee's duties."

Violation of Amtrak Safety Rules and Instructions, Rule 4061(A), which reads: "Use handle punch, handle cutter or handle spike lifter only when: (a) It is equipped with hose or other suitable head protection on the striking head."

Violation of Amtrak Safety Rules and Instructions, Rule 4080, which reads in part: "While using hammer, and chisel, or holding handle tool for sledger, watch for . . . remove spawl before it flies. If spike does not pry up readily, use sledge and spike lifter, with suitable protection over head of spike. Do not strike claw bar to start spike."

Specification: In that on Friday, August 14, 1987 at approximately 8:40 A.M. in the vicinity of M.P. 95.7, you were striking a spike lifter with a spike hammer when said hammer chipped and the metal fragment lodged in your right calf, which resulted in a personal injury.

After a postponement, the hearing took place on September 22, 1987, and as a result, Claimant was assessed a ten-day suspension. The Organization then filed a claim on Claimant's behalf, challenging the suspension.

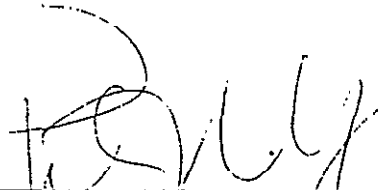
This Board has reviewed the evidence and testimony in this case, and we find that there is sufficient evidence in the record to support the guilty finding.

Once this Board has determined that there is sufficient evidence

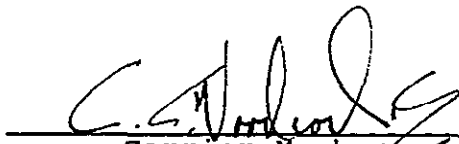
in the record to support the guilty finding, we next turn our attention to the type of discipline imposed. This Board will not set aside a Carrier's imposition of discipline unless we find it to have been unreasonable, arbitrary, or capricious. In this case, the Claimant was assessed a 10-day suspension for very unsafe activity which resulted in a personal injury. This Board cannot find that the 10-day suspension was unreasonable given the nature of the offense. Therefore, this claim must be denied.

Award:

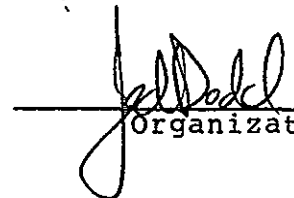
Claim denied.



Neutral Member



Carrier Member



Organization Member

Date: 12/30/88