

SPECIAL BOARD OF ADJUSTMENT NO. 986

Case No. 83

Docket No. NEC-BMWE-SD-2012D

PARTIES: Brotherhood of Maintenance of Way Employees

TO :

DISPUTE: National Railroad Passenger Corporation (Amtrak)

FINDINGS:

Claimant M. Dowery is employed as a truck driver by Carrier in Baltimore, Maryland. On October 14, 1987, Claimant was notified to attend a formal investigation of the charge:

Violation of Amtrak Rules of Conduct, Rule "B", which states in part: "Safety is of first importance in the operation of railroad and, therefore, is the most important aspect of an employee's duties. Employees must understand and comply with safety regulations and practices pertinent to their class or craft of employment. In all circumstances, employees should take the safest course of action. Hazardous conditions and conduct that may jeopardize the safety of passengers, employees, the general public, and/or Amtrak property must be immediately reported to the appropriate supervisor and corrected as quickly as possible . . ."

Violation of Amtrak Safety Rule and Instructions, Rule 4256, Part C, which states: "When lifting material or other object alone or with others:

(c) Lift only within limits of physical capabilities."

Specification: Whereas on September 30, 1987 in the vicinity of Wilmington Shops, you were manually loading 55 gallon drums into Amtrak Vehicle #AG 64731 and allegedly suffered a personal injury while lifting said drums.

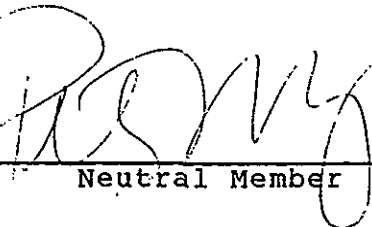
The hearing took place on November 16, 1987, and as a result, Claimant was assessed a three-day suspension. The Organization thereafter filed a claim on Claimant's behalf, challenging the suspension.


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 finding that the Claimant was guilty of violating Amtrak Rule B. The Claimant was manually loading 55-gallon drums into a vehicle in an improper fashion and, as a result, suffered a personal injury.

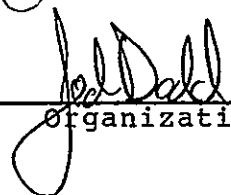
Once this Board has found that there is sufficient evidence in the record to support the guilty finding, we next turn our attention to the type of discipline imposed. This Board will not set aside a Carrier's imposition of discipline unless we find the action taken by the Carrier to be unreasonable, arbitrary, or capricious. This Claimant had previously received a letter of reprimand for violating Rule B. Therefore, this Board cannot find it unreasonable for the Carrier to issue a three-day suspension to the Claimant for the second offense.

Award:

Claim denied.

  
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Neutral Member

  
\_\_\_\_\_  
Carrier Member

  
\_\_\_\_\_  
Organization Member

Date: 12/30/88