

BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 1037

Case No. 17

PARTIES: Brotherhood of Maintenance of Way Employees
TO :
DISPUTE: CSX Transportation, Inc.

STATEMENT OF CLAIM: Claim of the System Committee of the
Brotherhood that:

Letter of reprimand issued to W. L. Glisson, ID# 175161, as
a result of investigation held November 9, 1990, at Tampa,
Florida.

FINDINGS:

As a result of a personal injury sustained by Claimant Glisson on
August 13, 1990, while turning ballast regulator assigned to T&S Gang
5T77 near Bradley, Florida, the Carrier notified the Claimant on
August 22, 1990, to appear for formal investigation in connection with
the following charges:

You are hereby charged with violation of the following
safety rules listed in Safety Handbook of CSX
Transportation dated January 1, 1990:

Safety is of the first importance in the discharge of
duty. Employees must exercise care to avoid injury to
themselves or others. The Company does not expect, and
will not permit any employee to take an unnecessary
chance in the performance of duty. No job is so urgent
that sufficient time cannot be allowed to perform all
work safely.

A portion of Rule No. 11:

Employees must watch where they step at all times . . .

A portion of Rule 464 which reads as follows:

When two or more employees are handling a heavy or
cumbersome object, they must have a definite
understanding as to the way the object is to be handled
and must observe the following precautions:
(A) Remove slipping or tripping hazards if practical.

If not practical, exercise care to prevent slipping or tripping.

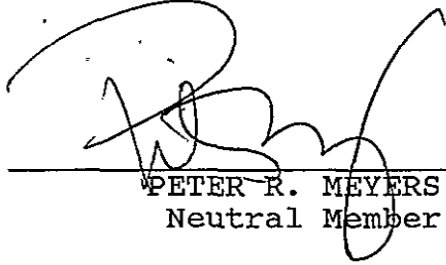
After three postponements, the hearing took place on November 9, 1990. On November 26, 1990, the Carrier notified the Claimant that he had been found guilty of violating various safety rules and was assessed discipline in the form of a reprimand. Thereafter, the Organization filed a claim on Claimant's behalf, challenging his discipline.

This Board has reviewed the evidence and testimony in this case, and we find that there was simply insufficient evidence of any wrongdoing on the part of the Claimant to justify the issuance of any discipline. There is no question that the Claimant was involved in an accident in which he was injured. However, as this Board has stated in the past, the mere fact that an injury takes place does not mean that a rule was violated and that an employee can be subjected to discipline. Although one witness at the hearing stated that the Claimant indicated to him in an oral statement that he had tripped over a rail, there is other evidence in the record to support the fact that the ground gave way and the Claimant hurt his leg. There were no witnesses to the incident, and the supposition on the part of the supervisor that since the Claimant was injured in the way he was he must have been negligent, is simply not enough to support any discipline. Therefore, this Board finds that there was insufficient evidence in the record to support the discipline and the claim must be sustained.

AWARD

Claim sustained. The reprimand shall be removed from the

Claimant's record.



PETER R. MEYERS
Neutral Member

Carrier Member

Organization Member

Date: _____