

BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 1037

Case No. 4

NATIONAL RAILROAD
AUG 13 1 14 PM '90
ADJUST. BOARD

PARTIES: Brotherhood of Maintenance of Way Employees

TO :

DISPUTE: CSX Transportation, Inc.

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

Five day suspension assessed F.L. Dodds, ID #175116
as a result of investigation held May 23, 1989, at
Jacksonville, Florida."

FINDINGS:

Claimant was charged with violation of Rule 78 of the CSX
Transportation's Safety Handbook when on March 16, 1989, at 3:05 p.m.
at 3019 Warrington Street, Jacksonville, FL, on the 2nd floor of the
Dispatcher Center, while on duty not wearing any type of safety
glasses.

A formal hearing was held on May 23, 1989, and as a result,
Claimant was issued a five day actual suspension. The Organization
thereafter 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 was guilty of the safety violation for
failing to wear his safety glasses on the date in question.

Although the Claimant argues that he had to clean them and that
he took them off to do that, he was not in the act of cleaning them
when he was stopped by his supervisor. If the Claimant needs to clean
his glasses, he should stop, take them off, clean them and put them
back on. He should not put them in his pocket or some other place.

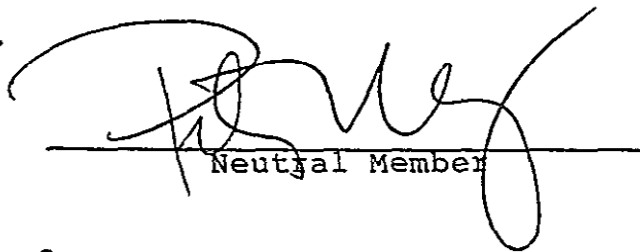
Just as when one gets a dirty windshield when he is driving, one pulls over to the side, cleans the windshield, before going forward. The fact that the glasses were dirty is no excuse.

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.

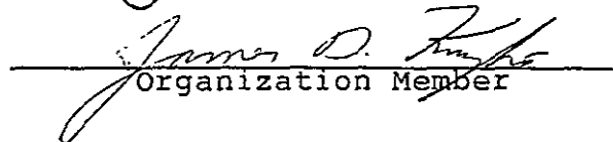
A five day suspension for this safety rule violation is not unreasonable given the length of service of the Claimant and his previous letters of caution for safety related matters. Therefore, the claim will be denied.

Award:

Claim denied.


Neutral Member


Carrier Member


Organization Member

Date: July 30, 1990