

SPECIAL BOARD OF ADJUSTMENT NO. 280

PARTIES) BROtherHOOD OF MAINTENANCE OF WAY EMPLOYEES
TO)
DISPUTE) ST. LOUIS SOUTHWESTERN RAILWAY COMPANY

STATEMENT OF CLAIM:

"1. Carrier violated the effective Agreement when Track Laborer R. D. Hess was unjustly dismissed from service in letter dated January 21, 1985. (Later reduced to a fifty (50) day suspension.)

2. Claimant Hess shall now be reimbursed for any expenses he has suffered and paid for all time lost, including all expenses incurred for having to attend the investigation which encompassed eight (8) hours pay, \$15.00 meal allowance and mileage pay for five hundred (500) miles round trip from Bell City, Missouri to Pine Bluff, Arkansas and return, and his personal record cleared of all charges." (MW-85-11-CB-Hess; 53-801)

FINDINGS:

The Board, after hearing upon the whole record and all the evidence, finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended; this Board has jurisdiction over the dispute involved herein; and, the parties were given due notice of hearing thereon.

The record shows that although Claimant allegedly sustained a personal on the job injury on September 4, 1984 that he did not submit a personal injury report relative to such matter to the Carrier until October 29, 1984.

That Claimant would maintain he was not aware of the injury until October 12, 1984, or when he was advised to have corrective neck surgery, which thereafter took place on October 16, 1984, may not be said to have represented valid reason for Claimant not having promptly reported the alleged injury to the Carrier.

Even assuming arguendo, as the Organization urges, that Claimant did not realize the severity of his injury until such time as he began to suffer severe pain at a later date, the fact remains Claimant had discussed with Carrier's supervisors the need to be released from duty for the doctor's appointment on October 11, 1984, but had not at that time, according to Carrier witnesses, mentioned the injury as having been job related. Furthermore, the Claimant stated at the company hearing that he had seen a doctor on September 20, 1984 and had also cancelled other ap-

pointments with the doctor notwithstanding his neck and shoulder were reportedly bothering him to a great extent in pain.

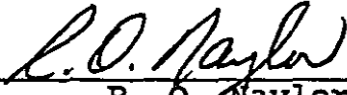
It being clearly evident that Claimant had not reported the alleged personal injury to Carrier in a timely manner in accordance with Rule M of Carrier's Rules and Regulations for the Maintenance of Way Department, the Board has no reason to hold that Carrier did not have the right to take appropriate disciplinary action.

AWARD:

Claim denied.



Robert E. Peterson, Chairman
and Neutral Member



R. O. Naylor
Carrier Member



M. A. Christie
Organization Member

Houston, TX
August 29, 1986