

SPECIAL BOARD OF ADJUSTMENT NO. 280

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

STATEMENT OF CLAIM

1. The thirty (30) days of suspension imposed upon Track Laborer T. S. Adams for alleged violation of Rule 607 was arbitrary, unjust and in violation of the Agreement (System File MW-87-21-CB/53-1018).
2. The Claimant shall have his record cleared of the charges leveled against him and he shall be compensated for all wage loss suffered beginning April 1, 1987 and continuing through April 30, 1987.

OPINION OF BOARD

As a result of an incident with Foreman B. J. Jordan on March 30, 1987, Claimant, a laborer with no indicated prior disciplinary record, sustained a surface cut to his abdomen unintentionally inflicted by Jordan. Claimant did not report the incident. After the Carrier became aware of the incident and beginning April 1, 1987, Claimant was withheld from service pending outcome of investigation. After investigation held on April 15, 1987 and by letter dated April 20, 1987, Claimant received a 30 day suspension. The record reveals that the foreman involved in the incident was also charged.

Article 14(A)(1) permits the Carrier to withhold employees from service pending investigation "in serious cases". Rule 607 requires the reporting of misconduct or negligence.

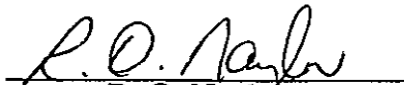
We agree with the Organization that Claimant was improperly withheld from service. Given the circumstances, Claimant's failure to report the incident was not "serious" as contemplated by Rule 14(A)(1). With respect to Claimant's failure to report the incident as a rule violation, we find that substantial evidence supports the Carrier's

conclusion that Claimant violated Rule 607 by failing to report the matter. However, given the totality of the circumstances, we believe that a 30 day suspension is excessive. In light of the above, the suspension shall be reduced to 10 calendar days and Claimant shall be compensated accordingly.

AWARD

Claim sustained in part. Claimant violated the rule as charged. However, the 30 day suspension is excessive and shall be reduced to 10 calendar days. Claimant shall be compensated accordingly.


Edwin H. Benn
Neutral Member


R. O. Naylor
Carrier Member


S. A. Hammons, Jr.
Organization Member

Houston, Texas
June 11, 1990