SPECIAL ADJUSTMENT BOARD NO. 947

Claimant - M. T. Harrison
Award No. 120
Case No. 120

PARTIES TO DISPUTE: Brotherhood of Maintenance of Way Employes
and
Southern Pacific Transportation Company (Western Lines)

STATEMENT OF CLAIM:

That the Carrier's decision to issue the Claimant's employment record thirty (30) demerits was excessive, unduly harsh and in abuse of discretion and in violation of the terms and provisions of the current Collective Bargaining Agreement.

That because of the Carrier's failure to prove and support the charges by introduction of substantial bona fide evidence, that Carrier now be required to reinstate and compensate Claimant for any and all loss of earnings suffered, and that the charges be removed from his record.

FINDINGS

Upon reviewing the record, as submitted, I find that the Parties herein are Carrier and Employes within the meaning of the Railway Labor Act, as amended, and that this Special Board of Adjustment is duly constituted and has jurisdiction of the Parties and the subject matter; with this arbitrator being sole signatory.

As a result of the evidence adduced at a formal hearing, the Claimant was found culpable for violating Rule 806 of the Rules and Regulations for the Government of the Maintenance of

Way and Structures and Engineering Department Employes, Form S-2292-E, which reads:

> Rule 806: All cases of personal injury, while on duty or on Company property must be promptly reported to proper officer on prescribed form.

While working as a Laborer on Extra Gang 73, on November 19, 1990, Claimant claims to have sustained an injury. It wasn't until after completing his work on November 28, 1990 that he mentioned the injury and filled out a 2611. He was taken to the hospital immediately and given medication for what was diagnosed as back spasms.

It is often true injuries do not show up the instant they occur. However, employees are obligated to report them as soon as they become aware of the possibility. In this case, the Claimant maintains he was told, while working for the Carrier in a different state, that the Carrier no longer wanted 2611s filled out until it was certain there was an injury. This Board has never been advised or been informed that the policy concerning injuries, and the reporting thereof, has changed. Employees have always been expected to report personal injuries in a timely manner. If the Claimant in this case had any doubts, he should have consulted someone when he first realized he may have hurt himself. However, to wait nine days, two of which were holidays, is simply too long to raise the possibility of a work related injury.

The Carrier has the right to protect itself against fraudulent claims of on-the-job injuries. It is a reasonable

rule to expect employees to report injuries when they occur.

The penalty issued in this case is reasonable in view of the rule infraction.

AWARD

The claim is denied.

Carol J. Zamperini
Impartial Arbitrator

Submitted:

June 14, 1990
Denver, Colorado

f