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The Claimant is a Spike Driver Operator who, on the day of his injury, worked for the Carrier for over 24 years. He had been a Spike Driver Operator for about five months. He went on duty at 7:00 a.m. and went off duty at 3:30 p.m..

When the Claimant suffered his injury, he was assisting another Spike Driver Operator in feeding spikes into the machine. As he ascended the steps onto the machine, he slipped and fell against the ladder causing an injury to his abdomen and chest.

The Organization contends the Claimant has never had trouble as an employee. He has been a dependable, intelligent and knowledgeable worker. They argue that the investigation was purely harassment since he was not negligent. They agree he may have stepped on some creosote which made the bottom of his shoes slippery, but, he cannot be faulted, it was just something that happened.


The Carrier counters that the employee, like other employees, has a responsibility to exercise care to avoid injury. They argue that the Claimant would not have been injured on the date in question if he had taken the proper precautions.

The Board, after reviewing the evidence, concludes that there is no question the Claimant was not as careful as he should have been when he ascended the steps onto the Spike Driver. As a result, he slipped and injured his abdomen and chest when he fell against the ladder of the machine.

Obviously the Claimant has a lengthy tenure and has been a very good employee. He should be commended for his employment record. However, the Board believes the Carrier demonstrated deference to his record when they issued him a Letter of Instruction for failing to exercise the necessary care in avoiding his injury. We see no reason to disturb this discipline.

AWARD

The claim is denied.



Carol J. Zamperini, Neutral

Submitted:

July 6, 1995
Denver, Colorado