

Special Board of Adjustment No. 956

PARTIES
TO
DISPUTE:

Brotherhood of Maintenance of Way Employees
and
New Jersey Transit Rail Operations, Inc.

STATEMENT
OF
CLAIM:

Request that reprimand for violation of Safety Rule 5 against B&B Mechanic A. Fernandez be removed from his record.

FINDINGS:

This is a companion case to Case No. 26 which has just been considered by our Board and which concerned claimant's refusal to report for light duty several days after he had injured his left hand while exiting the North Waiting Room at Hoboken Terminal.

The present case concerns Carrier's finding that claimant violated Safety Rule 5 when he left the Waiting Room.

Rule 5 provides, in pertinent part, that "when handling...doors...or other hinged devices, use handles or knobs provided...."

On the day in question, claimant was required to go to the Hoboken Terminal to pick up signs. When he

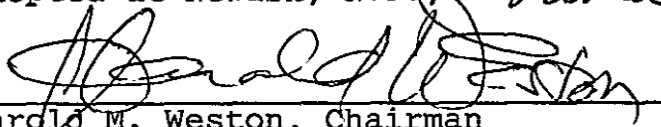
arrived there, he found that the signs were at another location. On his way out of the Terminal, claimant approached the set of four doors in the Terminal which alternate entrance and exit. As claimant was exiting, he attempted to assist a man trying to enter through an "in" door with a bundle of papers. He consequently did not use the push bar on the door but instead his hand went through a glass partition.

Carrier's concern for safety and interest in avoiding this type of accident is laudable. It is certainly important that claimant and other employees be warned not to push the glass pane in a door when seeking to open it.

However, a clear warning is sufficient in these circumstances and no persuasive reason is perceived for placing a reprimand on claimant's record, particularly since there is no evidence that claimant had previously violated safety rules and there is some indication that the door claimant attempted to open lacked a push bar, handle or knob and that its glass was cracked. The claim will be sustained because of the specific circumstances of the case but claimant is strongly warned to use care and heed all safety rules while on duty.

AWARD: Claim sustained subject to last sentence of Findings.

Adopted at Newark, N.J. *October 19*, 1987.


Harold M. Weston, Chairman


Carrier Member


Employee Member