

BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 986

Case No. 101

PARTIES: BROTHERHOOD OF MAINTENANCE WAY EMPLOYEES
TO :
DISPUTE: NATIONAL RAILROAD PASSENGER CORPORATION (AMTRAK) -
NORTHEAST CORRIDOR

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood
that:

The suspension of Truck Driver S. Gardner for violation of
National Railroad Passenger Corporation Rules of Conduct, Rule
"F", Paragraph 3, was without just cause and he was taken out of
service illegally.

FINDINGS:

Claimant S. Gardner was employed as a truck driver by Carrier.
Claimant was instructed to attend a trial in connection with the
following charge:

"In that you allegedly reported false information about your
personal injury of November 29, 1988, incurred while working
near Mile Post 56.3 on the Atlantic City Project at
approximately 11:15 a.m."

The trial was held on December 15, 1988 and as a result Claimant
was dismissed. The Organization thereafter filed a claim challenging
his discipline.

This Board has reviewed the evidence and testimony in this case
and we find that the Carrier has not met its burden of proof in that
there is not sufficient evidence in the record to support the finding
that the Claimant was guilty of the offense of reporting false
information about his personal injury.

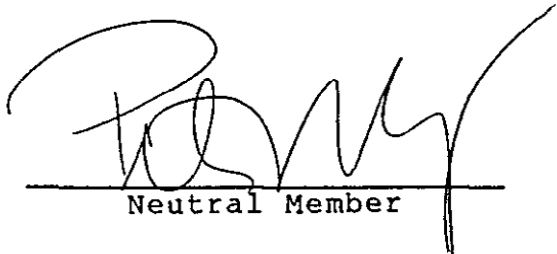
A thorough review of the transcript reveals that the Claimant
incurred a personal injury on the date in question. Although no one
actually saw the injury, there was testimony that he was on the ground
and complaining of pain. Most importantly, the Carrier bears the
burden of proof to show that there was false information reported by

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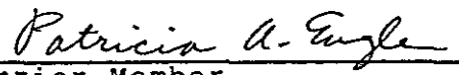
the Claimant. The Carrier has not met that burden and therefore has no basis to impose any discipline whatsoever. The claim must be sustained.

AWARD

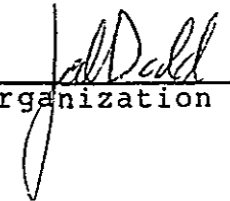
Claim sustained.



Neutral Member



Carrier Member



Organization Member

Date: 10-17-89