

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Award No. 13094
Docket No. 12981
96-2-95-2-2

The Second Division consisted of the regular members and in addition Referee Elizabeth C. Wesman when award was rendered.

(International Association of Machinists and
(Aerospace Workers

PARTIES TO DISPUTE: (

(CSX Transportation, Inc. (former
(Baltimore and Ohio Railroad Company)

STATEMENT OF CLAIM:

- “1. That, in violation of the current agreement, CSXT (former Baltimore & Ohio Railway Company) arbitrarily disciplined Machinist W. G. Loughry by unjustly assessing a ten (10) day actual suspension. The suspension was effective August 11, 1993.
2. That, accordingly, CSXT be ordered to compensate Machinist Loughry ten (10) days pay at the pro-rata rate of pay as of August 11, 1994 and that his record be cleared immediately.”

FINDINGS:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute were given due notice of hearing thereon.

At the time of the incident precipitating this dispute, Claimant was employed as a Machinist at Carrier's Riverside Shop in Baltimore, Maryland. By letter of June 15, 1993, Claimant was notified to appear at an Investigation concerning his failure to report an alleged injury in accordance with Safety Rule 1, sub paragraph (i). Rule 1, sub paragraph (i) reads as follows: "oral and written report of accidents and injuries are made as soon as possible to the supervisor or employee in charge."

Following an Investigation, he was found guilty of the charge and assessed a ten day actual suspension. The discipline was appealed and subsequently progressed in the usual manner.

The Organization asserts that Claimant was not afforded a fair and impartial Hearing. In particular, it points to some missing segments of Organization testimony and comments on the transcript. While the accuracy of the transcript is not perfect, there is no evidence on the record that any incidental omissions were either intentional on Carrier's part or crucial to the Organization's case. Thus the Board does not find that Claimant's due process rights were violated.

It is undisputed that Claimant fell through an open floor board inside the cab of a locomotive on May 12, 1993. It is also undisputed that he mentioned the incident to three fellow employees on that day. Claimant completed the remainder of his shift following his fall and worked the next two days. On May 15 Claimant advised his Foreman that he was having a problem with his ribs as a result of the May 13 fall.

The Carrier maintains that Claimant simply disregarded Carrier's Safety Rule and published policy requiring prompt reporting of any personal injury. Carrier points out that there is a long line of Awards on various Boards supporting Carrier's right to insist that employees report injuries promptly, in order to mitigate potential damages by having the employee treated promptly and to give the Carrier an opportunity to correct any conditions that may cause injury to other employees. (See Third Division Awards 19298 and 22936, as well as Public Law Board No. 4859, Award 4.)

The Organization contends that Claimant was injured as a result of Carrier's negligence in not providing him a safe and suitable place to work. Further, it insists that Claimant reasonably declined to report the incident at issue when it occurred, because he believed he was not seriously hurt. Moreover, the Organization maintains that it was Carrier's policy not to have employees write up an injury report unless the injury was serious. Because Claimant initially believed that his injury was not serious, he cannot be faulted for failure to report it on the day it occurred.

The long history of cases on this and other Boards supports the premise that a carrier has a vested interest in maintaining a safe and healthy workplace. An integral part of providing a safe workplace is timely reporting of injuries and/or hazardous situations.

While Claimant may honestly have felt that his injuries were insufficient to warrant filing of a written report, that judgment was not his to make. Unrefuted testimony at the Investigation established that while a Foreman may allow an employee the option of not filing a written injury report in the case of truly minor injuries, the occurrence of the injury is still reported by the Foreman to the appropriate Carrier officer. Accordingly, employees are obliged to report injuries, however minor, when they occur.

With respect to the Organization's claim that Claimant's injury was a function of Carrier negligence, the record shows that there was "caution" tape on the locomotive. Furthermore, Claimant admitted passing through the caution tape to get into the locomotive cab. Thus, there is nothing on the record to support the Organization's defense of "Carrier negligence."

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Dated at Chicago, Illinois, this 30th day of December 1996.