

CORRECTED

NATIONAL RAILROAD ADJUSTMENT BOARD
FIRST DIVISION

Form 1

Award No. 24317
Docket No. 43902
94-1-92-1-C-4589

The First Division consisted of the regular members and in addition Referee John B. LaRocco when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Locomotive Engineers
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(Chicago and North Western Transportation
(Company

STATEMENT OF CLAIM:

"The Brotherhood of Locomotive Engineers General Committee of Adjustment requests this Division to fully compensate Engineer E. F. Lindsey for all time lost including the time spent at the investigation and discipline entry expunged from his service record and that his name be removed from the C&NW Discipline System. Engineer Lindsey was investigated on the following charge:

Your responsibility for your failure to report a personal injury which occurred on May 30, 1991 at approximately 2200 hours in violation of General Rule E of the General Code of Operating Rules when employed as engineer on WKE02."

FINDINGS:

The First 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 waived right of appearance at hearing thereon.

Following an Investigation held on June 25, 1991, the Carrier suspended Claimant from service for five days because he allegedly failed to timely report a personal injury which he had suffered on May 30, 1991. At the Investigation, the Milwaukee Terminal Superintendent testified that, on June 6, 1991, he received a Personal Injury Form (No. 148) which Claimant had completed on June 1, 1991. On the form, Claimant wrote that, as he was climbing down the wet stairs of his engine at tie up time on May 30, 1991, he slipped and struck his leg against the stairs. Claimant testified that he did not immediately report the mishap because his leg, although bruised, did not hurt him.

Claimant called the office to mark off absent on May 31 because his wife was ill and he also marked off the following day because he was purportedly sick. Claimant did mention his leg injury when he called the Carrier on June 1. At his wife's behest, and because the bruise did not heal, Claimant consulted a physician on June 1, who ascertained that Claimant's leg was fractured. On crutches, Claimant stopped by the office to obtain and complete the personal injury form. Claimant contended that he attempted to call the Trainmaster, his immediate supervisor, on June 1 and June 3. The Trainmaster did not receive any messages from Claimant.

The record contains substantial evidence that Claimant did not promptly report his personal injury which occurred while he was on duty on May 30, 1991. Even though the Carrier has an obligation to provide a safe work environment, Claimant still must report an injury so that the Carrier may promptly investigate the matter, correct any hazardous conditions and most importantly, insure that the injured employee receives necessary medical attention. The prompt reporting of injuries is mandatory regardless of whether the Carrier, Claimant, or an Act of God caused the mishap.

In this case, Claimant marked off duty on May 31 and June 1 yet did not inform the Carrier of the accident. Claimant was particularly vague on June 1 when, presumably his leg kept him from work, yet he told the Carrier he was marking off duty due to personal illness.

More importantly, Claimant was on crutches for several days before Carrier officers learned of the injury. Claimant could easily have left a message with crew management or the Trainmaster's assistant. In sum, Claimant had many opportunities to inform the Trainmaster or Superintendent about his injury long before June 6, 1991. Indeed, if Claimant had properly reported the injury on May 30, the Carrier could have made certain Claimant immediately received medical treatment. Because he went without medical care for two days, Claimant may very well have aggravated his leg injury.

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In summary, Claimant failed to comply with the rule requiring prompt reporting of a personal injury and the five day suspension was consistent with Section 1(b) of the Carrier's disciplinary policy.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of First Division

Attest:



Linda Woods - Arbitration Assistant

Dated at Chicago, Illinois, this 10th day of June 1994.