

When In Doubt, Write It Out: **The Value of a Written Complaint**

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One would think that railroads, with the knowledge and expertise of their thousands of employees and over a century of experience, would easily recognize workplace hazards and happily seek to remedy them. After all, wouldn't you want happy, safe, uninjured employees? This is often not the case, however.

Given the fact of business life involving financial pressures, time pressures and merger pressures, railroads often overlook common sense safety matters. Despite (1) the relatively common practice of having "safety meetings" involving members of different crafts expressing concerns and ideas on how to do things more safely, (2) safety rules which require the reporting of "any unusual condition that may affect the safe and efficient operation of the railroad", and (3) catchy slogans such as "safety first" and "safety is my responsibility," railroaders often complain that they feel this attitude is more for show than for real.

As we have seen, employees are supposedly encouraged to report safety problems and they often do so. Reports of debris and litter in the yard, problems with switches, problems with track structure such as drainage, ballast structure, or defects in tools or equipment are often reported to next line employees, such as trainmasters, yardmasters or foremen. Sometimes these matters are brought up by your representatives at safety meetings. Should you then rest assured that the railroad has notice of problem conditions and will work on remedying them if possible. Not so! Let me give you a few examples.

You work in a yard which is usually strewn with debris which has fallen off of cars. This is obviously a dangerous walking hazard. You brought this up to the trainmasters and yardmasters. Your representative on the safety committee has even brought it up at safety meetings. If an employee trips over the debris and injures himself, the railroad has notice that this condition exists and will admit its fault. Think again. During a trial for personal injuries to the employee, the railroad denied under oath ever receiving any complaints from any of the men regarding the debris in the yard.

The company officials had a complete loss of memory regarding any of these verbal complaints. The safety committee had minutes kept by a company officer which were very sketchy. Mysteriously, no record existed in the minutes of complaints of debris in the yard. The railroad said it was not responsible for the injury because it did not know that there was a problem.

This actually happened. Fortunately, the legislative representative or safety officer of the union came to the rescue. He had kept carefully detailed letters written by individuals to the railroad complaining of the situation copied to him, as well as keeping copies of his own letters to the

railroad complaining of the situation and demanding its rectification. The railroad was suddenly faced with hard, irrefutable evidence on this issue instead of being faced with a situation of "my word against your word."

An engineer was severely injured on oversized, overly sloped ballast in a yard. As expected, the railroad denied any knowledge of prior complaints regarding this condition. They said, "If we didn't know about it, we don't have to fix it."

The union officials testified that they went up to the claim agent with a box of the oversized ballast, dumped it on his desk, and asked him "when is this stuff going to kill someone?" Not surprisingly, the claim agent denied that the conversation took place in that manner and it was a matter of "my word against your word."

Luckily, these union officials had the foresight to follow up the conversation with written letters condemning the ballast conditions. Not only did the local chairman get involved in the written complaint writing, but the legislative representative also became involved. When faced with three foot-by-three foot blow ups of the letters of complaints by the union officials and supporting photographic documentation they had taken, the railroad officials were forced to beat a hasty retreat from their earlier testimony regarding lack of notice. The railroad suddenly settled the case in the middle of the trial.

These examples illustrate a powerful lesson to be learned by any railroader. "When in doubt, write it out." A railroad official may forget a verbal complaint because he is too busy or simply does not want to deal with it. Action may not be taken on a complained of item because it may be felt by the railroad that the complaint is too trivial, action is unnecessary, or that action is too expensive. No one likes to be proved wrong, so after an accident occurs, there is even more pressure on the railroad official to "forget" a verbal conversation. Reasons for forgetfulness include not wanting to look bad before bosses or, quite simply, not wanting to "fess up" to liability and try to reduce the railroad's damages at your expense.

The old saying "a picture is worth a thousand words" also works for letters. Write a letter confirming a conversation. Send the letter to your safety officer/legislative representative to pass on to the railroad officials. Photograph a condition if appropriate. Send a letter reminding officials of an item discussed at a safety meeting. When faced with written reports of bad conditions, a railroad is more likely to act. Remember, the squeaky wheel gets the grease.

A railroad is more likely to act upon written complaints and correct a bad situation before an accident happens. Hopefully, the railroad will remedy any unsafe condition before an accident happens. If they do not, the written complaints you make help you or your fellow worker in keeping the railroad from denying liability helping you to recover for your injuries.