



Award No. 6305

Docket No. 6182

2-C&NW-CM-'72

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Joseph E. Cole when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 12, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. - C. I. O. (Carmen)**

CHICAGO AND NORTH WESTERN RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That the Carrier unjustly removed Carman Charles F. Onstott III from service on June 25, 1970 and held out of service up to and including July 30, 1970.

2. That Carrier be ordered to compensate Carman Charles F. Onstott III for the twenty-five (25) days held out of service, plus all other benefits to which entitled.

EMPLOYEES' STATEMENT OF FACTS: Mr. Onstott was hired on the Chicago and North Western R. R. July 9, 1965 and has worked until April 2, 1966, at which time he was inducted into the army and served four years.

He was discharged from the army on March 10, 1970 and returned to railroad duty on June 1, 1970. Mr. Onstott had a physical examination by Doctor Collins, Edwardsville, Illinois and was permitted to return to work June 1, 1970. He worked until June 25, 1970 at which time he was taken out of service and held out for twenty-five (25) days pending certain medical information the Carrier requested of him (on July 30, 1970, he was again returned to work).

This matter has been handled up to and including the highest designated officer of the Carrier who has declined to adjust it.

The Agreement, effective July 1, 1921, as amended, is controlling.

POSITION OF EMPLOYEES: We feel that a great injustice has been done to Carman Onstott and, therefore, respectfully request he be paid for all days held out of service. We further feel that the fact that Mr. Onstott was involved in an automobile accident and did possibly sustain some injury, as outlined in Mr. Curcio's letter of August 28, 1970 (Exhibit No. 5) and Mr. Fremon's letter of January 4, 1971 (Exhibit 11A). He, nevertheless, did work from June 1st to June 25, 1970 without any difficulty and the company doc-

There is no support for the claim for 25 days' pay. The claim is without merit and should be denied.

All information contained herein previously has been submitted to the employes during the course of the handling of this case on the property and is hereby made a part of the particular question here in dispute.

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

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employe 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.

It is the considered opinion of this Referee that when the claimant underwent a physical examination prior to his return to active service of Carrier, it was the responsibility of the physician who examined him to have taken the x-rays of claimant prior to returning him to active service. We will sustain the claim.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 2nd day of June 1972.