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Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 6331
Docket No. 6147
2-SCL-CM-'72

The Second Division consisted of the regular members and in addition Referee Robert G. Williams when award was rendered.

Parties to Dispute: (System Federation No. 42, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Carmen)
(Seaboard Coast Line Railroad Company

Dispute: Claim of Employees:

1. That under terms of the agreement, Carman T. A. Jarrard was unjustly held out of service the period September 29, 1969 through October 2, 1969 and being placed to expense of furnishing his own transportation for 174 miles and \$2.53 for meals.
2. That accordingly the Seaboard Coast Line Railroad Company be ordered to compensate Carman T. A. Jarrard eight (8) hours each day September 29 and 30, and October 1, 1969, eight (8) hours at time and one-half rate for October 2, 1969, and reimburse him for 174 miles at ten (10) cents per mile and reimburse him for \$2.53 for meals.

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.

The record shows that claimant was hospitalized due to illness from July 23, 1969, until August 24, 1969. On September 24, 1969, claimant reported to the Carrier with a statement from his personal physician, which contained the doctor's diagnosis, with the statement that claimant would be able to return to his regular duties on September 29, 1969.

On September 26, 1969, Carrier's Chief Medical Officer acknowledged receipt of the report of claimant's personal physician, and advised claimant that before consideration could be given to his return to work, it would be necessary that he be

examined by the Chief Medical Officer, and instructed claimant to report in Jacksonville, Florida for such examination at 8:30 A.M., October 2, 1969. The claimant reported for his examination on October 2, 1969, and was released for normal duties under the condition that he wear elastic supports and shin guards on lower legs at all times while on duty. The claimant returned to duty on October 3, 1969.

Claim was presented and progressed that claimant be compensated eight hours per day for being held out of service September 29 and 30, and October 1 and 2, 1969, and be compensated eight hours at the overtime rate for the time he spent in meeting the appointment with the Chief Medical Officer. He also requests that he be compensated for 174 miles at rate of 10 cents per mile, and \$2.53 for noonday meal at Jacksonville.

In recent Award 6278 (McGovern) involving the same parties as involved herein the Board held that there is no question that Carrier has the inherent right to require employes to submit themselves for physical examination before returning them to work, but that the Carrier had the obligation to render the examination within a reasonable time. In that case it was held that the physical examination should have been performed within five days. We find Award 6278 to be sound and reasonable and we adopt the principles therein set forth. We find that the physical examination of claimant herein should have been performed within five days from September 24 or by September 29. We will accordingly award claimant pay for eight hours per day at straight time rate for September 30 and October 1 and 2, 1969. There is no evidence to support the claim for eight hours at the overtime rate for October 2, nor is there substantiation for the mileage or meal expense, and these portions of the claim are denied.

A W A R D

Claim sustained to the extent indicated in Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:

E. A. Killen
Executive Secretary

Dated at Chicago, Illinois, this 7th day of July, 1972.