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Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 6476
Docket No. 6366
2-MP-SM-'73

The Second Division consisted of the regular members and in addition Referee John J. McGovern when award was rendered.

Parties to Dispute: (System Federation No. 2, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Sheet Metal Workers)
(
(Missouri Pacific Railroad Company

Dispute: Claim of Employees:

1. That the Missouri Pacific Railroad Company violated the controlling Agreement, particularly Rules 13(a), 13(c), 25 and Item 6 of Conditions of Employment, when Sheet Metal Worker W. G. Aguirre, Houston, Texas was instructed to report to the Company doctor for physical examination during his working hours on November 1, 1971 without compensation.
2. That accordingly, the Missouri Pacific Railroad Company be ordered to compensate Sheet Metal Worker W. G. Aguirre in the amount of six (6) hours at the pro rata rate for complying with Company orders during working hours November 1, 1971.

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.

On July 27, 1971, claimant entered the hospital as a patient and was released by his personal Physician on October 28, 1971 to return to work on November 1, 1971. On that date, he reported to the Master Mechanic's office with a release from his personal Physician. Since he had been off duty more than thirty days, the Master Mechanic required that he report to the Carrier's medical officer before he was permitted to re-assume his duties. He was examined by said Doctor and returned to duty. He worked two hours, the other six having been consumed by waiting for the physical etc.

Petitioner alleges a violation of Rule 13(c) which follows:

"When the employe creating a temporary vacancy returns, he will assume his regular assignment."

As we held in Award 6331, Carrier has the inherent right to require employees to be certified as physically capable of performing their duties particularly after a long period of hospitalization. The interests of safety to fellow employees, the public safety etc. is of paramount consideration. The only obligation of Carrier in this type of situation is that the Physical should be done within a reasonable period of time. That has been done in this case. We cannot find that Carrier has violated the Agreement. We will deny the claim.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:

E. A. Killen

Executive Secretary

Dated at Chicago, Illinois, this 30th day of April, 1973.