

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

Parties to Dispute: { Sheet Metal Workers International Association  
{  
{ Seaboard Coast Line Railroad Company

Dispute: Claim of Employees:

1. Chief Medical Officer withheld claimant from service for reason not related to illness.
2. That Carrier be ordered to compensate claimant for eight (8) hours pay per day for regular assignment at pro rata rate.
3. That Carrier compensate claimant for any overtime he may have qualified for at time and one-half rate of pay.
4. That carrier make claimant whole for any other contractual benefits he may have been entitle to should he have been permitted to return to work.

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 claimant, Rody E. Laboris, a sheet metal worker at carrier's Hialeah, Florida, facility, was withheld from service from May 10, 1978 to December 19, 1978. Carrier alleges that the claimant was withheld for medical reasons related to alcoholism. The claimant claims that he was withheld from service on suspicion only, that he is not an alcoholic, and that being withheld from service without a proper hearing is unjust discipline.

From the record before us, this Board must uphold the position of the organization. The claimant was released by his personal physician to return to work on May 9, 1978. He had been off as a result of a leg problem. Upon returning, he was ordered to be examined by the carrier's chief medical officer who smelled alcohol on the claimant's breath. He concluded that the claimant had an alcoholism problem and refused to authorize his return to work.

Based on the record, this board cannot conclude that claimant was an alcoholic or that alcohol was a contributing factor in any way to the claimant's attendance record. The examination given the claimant by the chief medical officer provided insufficient grounds upon which to base the conclusion that the claimant is or was an alcoholic. The record is barren of any clinical diagnosis or examination to support the doctor's suspicion. The record is also barren of any attendance records about which this Board can make a judgment as to the severity of the claimant's attendance problem.

This Board has consistently taken the position that employee assistance programs should be separated from disciplinary matters. Employees should not be disciplined for failure to attend these programs. It has also taken the position that when a diagnosis of acute alcoholism is made and carrier places an employee on extended medical leave, we will not interfere with those decisions. This Board cannot be too strong in its insistence that the labelling of an employee as an alcoholic must be based on clinical diagnosis, not mere suspicion.

This Board would also like to point out to the Claimant that he can be discharged for absenteeism. This will be the result if he does not go to work regularly, mend his ways, and avoid further problems with his employment.

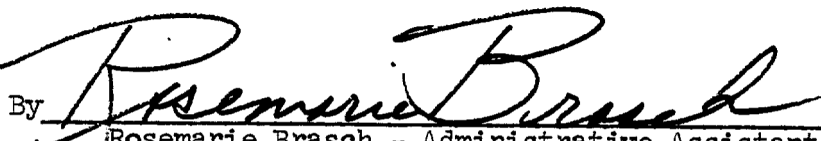
Based on the record before us and our findings, this Board must uphold the organization's claim.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest: Executive Secretary  
National Railroad Adjustment Board

By   
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 16th day of April, 1980.