

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

Parties to Dispute: { International Brotherhood of Electrical Workers  
{ Chicago, Milwaukee, St. Paul and Pacific Railroad Company

Dispute: Claim of Employees:

1. That the Chicago, Milwaukee, St. Paul and Pacific Railroad Company violated the current agreement when Electrician John Mitchell was denied four hours of compensation on July 9, 1979 while instructed to see the company's physician.
2. That the Chicago, Milwaukee, St. Paul and Pacific Railroad Company be ordered to compensate Mr. John Mitchell for four hours at the rate of \$9.27 per hour.

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.

Claimant seeks four hours of pay for the time he spent undergoing a Carrier mandated physical examination on July 9, 1979. On June 11, 1979 Claimant had informed the Carrier that he would be off work until further notice due to an injury he suffered in an automobile accident. Claimant reported to his regular assignment on July 9, 1979 but before he was permitted to resume working, the Carrier directed Claimant to report to the Carrier's physician for a medical examination. Claimant obeyed the order and then returned to work the remainder of his July 9, 1979 shift.

The Organization argues that the Carrier is required to compensate the Claimant under Rule 1 of the applicable agreement which provides for eight standard working hours per day. According to the Organization, the Carrier ordered the physical examination solely for its own benefit (since Claimant had already obtained a medical release from his personal physician) and so it should pay Claimant for one full shift on July 9, 1979. The Carrier asserts it has an obligation to ascertain whether or not an employee returning from an off duty injury is fit to return to service before allowing the employee to work. In this case, the Carrier submits that there is no language in Rule 1 which prohibits the Carrier from reasonably exercising its discretion to compel Claimant to undergo an examination by its own physician without compensation.

In numerous past decisions, this Board has consistently ruled that the Carrier, if it does not act arbitrarily and if there is no restriction in the agreement, may withhold an employee from service for a reasonable time where the employee reports to work after an absence due to an injury for the purpose of conducting a physical examination. Second Division Awards No. 6233 (Dugan); No. 6403 (Bergman); and No. 6476 (McGovern). Even though Claimant properly tendered the Carrier a medical release from his personal physician, the Carrier may reasonably ascertain through its own examination if Claimant was fit to resume his rigorous duties in the interest of Claimant's safety as well as the welfare of his fellow employees. In this instance, when Claimant reported to duty on July 9, 1979 after a month long injury absence, he was withheld from service for only four hours which is a reasonable amount of time.


A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest: Acting Executive Secretary  
National Railroad Adjustment Board

By

  
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 19th day of May, 1982.