

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

Parties to Dispute: (International Association of Machinists and
(Aerospace Workers
(Baltimore and Ohio Railroad Company

Dispute: Claim of Employees:

1. The Baltimore and Ohio Railroad Company ordered Machinist Helper D. E. Welch, Cumberland Locomotive Shops, Cumberland, Maryland, to present himself to the Carrier's physician, at Baltimore, Maryland, for a physical examination on July 11, 1979, his scheduled work day.
2. Accordingly, Machinist Helper D. E. Welch should be compensated for one (1) day's pay, at the pro-rata rate of pay, for July 11, 1979.

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, a Machinist Helper at the Carrier's Cumberland Locomotive Shops, was instructed to report to the Carrier's physician at Baltimore, Maryland for a physical examination. The examination was originally set for July 5, 1979 (a rest day for Claimant) but was rescheduled, at Claimant's request, for July 11, 1979 which was a work day. Claimant seeks eight hours of pay for missing one day of work in order to comply with the Carrier's directive.

The Carrier asserts that it could reasonably order the physical examination since Claimant had been absent at an abnormally high rate during the first five months of 1979. While the Organization does not directly contest the Carrier's right to insist on physical examination, the Organization argues that it was inherently unfair to require Claimant to travel to Baltimore. If the examination had been conducted in Cumberland, Claimant would not have lost a full day's pay. Lastly, the Carrier submits that the Organization has not pointed out any rule in the applicable agreement which gives Claimant a right to compensation for the time he spent undergoing the physical examination.

On the property, the Organization failed to cite any rule which the Carrier violated. The Organization bears the burden of proving each element of its claim. A crucial part of a claim is to specify, on the property, a contract term which was allegedly breached. Second Division Awards Nos. 7420 (McBrearty) and 8302 (Roukis). In its submission to this Board, the Organization did allude to Rule 32 of the applicable agreement which concerns disciplinary procedure. However, the Organization neither explained the relevance of Rule 32 nor why it was not raised on property. Absent a citation to an agreement provision which could arguably prohibit the Carrier from ordering Claimant to submit to a physical examination (without pay) under the circumstances presented in this record, we must dismiss the claim. Second Division Award No. 8325 (Dennis).

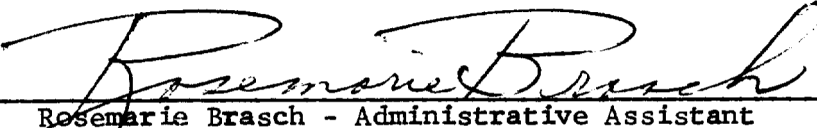
A W A R D

Claim dismissed.

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.