

The Second Division consisted of the regular members and in addition Referee Eckehard Muessig when award was rendered.

(United Steelworkers of America
Parties to Dispute: (
(The Lake Terminal Railroad Company

Dispute: Claim of Employees:

Mr. Guetierrez claims that the Company violated his seniority rights when the Company failed to comply with Rule No. 6 (C) and (F) on Seniority and Rule No. 27 (B) on Furlough and Recall.

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 employes 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 Board has carefully reviewed the record in this case. Essentially, this review reveals that, following a medical disagreement involving the Claimant, the Parties agreed that a third doctor's opinion would be sought and that it would be final and binding upon the Parties. In the opinion of this physician, the Claimant was not physically qualified to return to work for the Carrier.

Accordingly, in this dispute we have a voluntary agreement by the Parties that set forth the process and manner by which the dispute would be settled. Thus, the sole dispute issue, i.e., whether the Claimant was able to perform service, was decided in accordance with medical authority, as agreed upon by the parties. In view of all of the foregoing, there is nothing for this Division to decide, and the Claim is dismissed as moot.


A W A R D

Claim dismissed.

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Award No. 11357
Docket No. 10867
2-LT-USA-'87

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: 
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 7th day of October 1987.