

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 11776
Docket No. 11678
89-2-88-2-208

The Second Division consisted of the regular members and in addition Referee Paul C. Carter when award was rendered.

PARTIES TO DISPUTE: (International Brotherhood of Firemen & Oilers
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(Denver and Rio Grande Western Railroad Company

STATEMENT OF CLAIM:

1. That in violation of the current Agreement, Laborer P. Griggs, Pueblo, Colorado, was unfairly dismissed from service of the Denver, Rio Grande Western Railroad Company effective March 29, 1988.

2. That accordingly, the Denver and Rio Grande Western Railroad Company be ordered to make Mr. Griggs whole by restoring him to service with seniority rights, vacation rights and all other benefits that are a condition of employment, unimpaired, with compensation for all lost time plus 6% annual interest; with reimbursement of all losses sustained account loss of coverage under Health and Welfare and Life Insurance Agreements during the time held out of service; and the mark removed from his record.

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 record shows that on February 19, 1988, Claimant was notified by the Carrier's General Mechanical Foreman:

"In accordance with Rule 12 of the current Contract and Agreement, you are hereby to report for work as a laborer at Pueblo Train Yard, Pueblo, Colorado.

However, before we can let you return to work, under Rule 16 D, it will be required that you pass a physical examination. Please contact my office at 549-6225 to set up a time for your physical examination.

The Claimant did contact the office of Carrier's General Mechanical Foreman by telephone, but no time was set up for a physical examination.

Following a formal Investigation on March 21, 1988, Claimant was dismissed from Carrier's service on March 29, 1988.

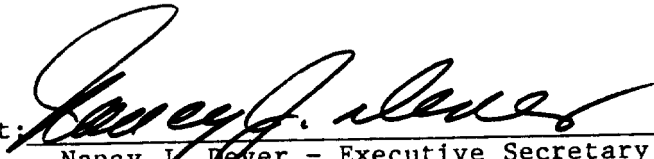
The Board has carefully considered the voluminous record in the dispute and we find and hold that Claimant be restored to his former seniority without any compensation for time that may have been lost as a result of the parties' actions and that he be permitted to return to active service, provided he passes a satisfactory physical examination by a doctor designated by the Carrier.

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 11th day of October 1989.