

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

PARTIES TO DISPUTE: ((Brotherhood Railway Carmen/Division of TCU
(Pacific Fruit Express Company

STATEMENT OF CLAIM:

1. That the Pacific Fruit Express Company violated the controlling agreement, particularly Rules 19, 20, 21 and 37, when Carman F. F. Carley was recalled to service on December 11, 1986, but was not permitted to begin work until January 28, 1987.

2. That accordingly, the Pacific Fruit Express Company be ordered to compensate Carman Carley for all work days lost beginning on the date of December 11, 1986 to January 28, 1987, Tucson, Arizona.

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 facts in this Claim are almost identical to those involved in our Award 11827. As was the case in that Award, Claimant did not sign his medical form at the time he participated in a return to duty physical examination. The form was mailed back to Claimant for his signature. Claimant mailed it to Carrier's Office in Roseville, California, where it was received on Friday, January 16, 1987. That same day it was forwarded to Carrier's Medical Officer, who received it on Tuesday, January 20, 1987.

The Chief Medical Officer took a little more time in reviewing Claimant's reports than he had in several other cases. However, on January 26, 1987 he advised that Claimant was cleared for return to duty with certain restrictions, he could not lift over fifty pounds.

Claimant was immediately advised, by phone, of his approval to return to work, with lifting restrictions, and did so, two days later, on January 28, 1987.

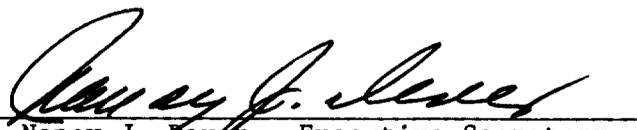
In the circumstances of this record we do not find that Carrier was dilatory or that the Agreement was violated. The Claim will be denied.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 7th day of March 1990.