

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

(Brotherhood Railway Carmen/Division of TCU  
PARTIES TO DISPUTE: (  
(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 R. Baylon was recalled to service on December 11, 1986, but was not permitted to begin work until February 11, 1987.

2. That accordingly, the Pacific Fruit Express Company be ordered to compensate Carman Baylon for all work days lost beginning on the date of December 11, 1986 through February 11, 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.

We have considered a number of disputes between Petitioner and Carrier wherein it has been alleged that Carrier somehow violated the Agreement when it was dilatory in returning recalled Carmen Welders to service at Tucson, Arizona, in late 1986 and early 1987. See for example our Award 11827.

In this case Claimant was mailed his recall notice on December 11, 1986. He responded on December 16, and was given his physical examination on December 18. Upon reviewing his completed medical forms, Carrier's Chief Medical Officer, noted a physical problem which required further evaluation. When this evaluation was completed Claimant was notified that he was cleared for duty with a lifting restriction. Claimant returned to duty on February 11, 1987.

Carrier has offered no reasons for the delay in effecting Claimant's return, only that his case required special consideration. It is our view that an inordinate amount of time was used in reviewing Claimant's physical condition and that Carrier was dilatory in effecting his return. Carrier's Chief Medical Officer phoned Carrier on January 6, 1987 that Claimant was approved for duty. Five working days time, thereafter, would be appropriate to place him on the job.

Accordingly, Claimant should have been returned to duty by January 11, 1987. He should be compensated for all work days lost between that date and the date he returned to service, February 11, 1987.

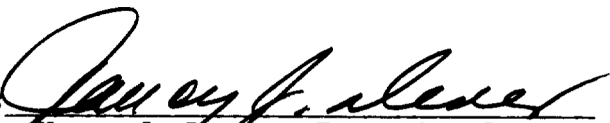
The Claim will be sustained for all work days lost between January 11, 1987 and February 11, 1987, inclusive.

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 7th day of March 1990.