

The Second Division consisted of the regular members and in addition Referee Barry E. Simon when award was rendered.

PARTIES TO DISPUTE: ((Brotherhood Railway Carmen/Division of TCU
(CSX Transportation, Inc.
(Chesapeake and Ohio Railway Company)

STATEMENT OF CLAIM:

1. That the service rights of Carman Paul V. Jenkins and the provisions of Rules 22 and 37 of the Shop Crafts Agreement were violated when on or about April 13, 1987 the Carrier refused to allow Mr. Jenkins to return to service following a return from sick leave and was excessively held from service pending a Form MD-3-RRM being completed and forwarded to the Chief Medical Officer.

2. Accordingly, Mr. Jenkins is entitled to be compensated for eight (8) hours pay for each work day from April 13, 1987 until April 27, 1987 and credit toward vacation qualifying for the year 1987 and any and all other benefits Mr. Jenkins would have received had he been permitted to return to work on the date of April 13, 1987.

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.

Claimant had been absent from work as the result of illness from March 24, until April 13, 1987, at which time he presented a release from his personal physician stating he was able to return to work. Claimant's supervisor took this release, but gave him a "Confidential Report of Off Duty Injury or Illness" form and instructed him to have his doctor return it to Carrier's Medical Director. The completed report was received by the Medical Director on April 23, 1987, and Claimant was found to be medically qualified the following day. During this time, Claimant was not permitted to return to work. He resumed service on April 27, 1987, and the Organization now claims compensation on his behalf from April 13, 1987, until he was allowed to return to work.

The Organization argues Carrier's failure to allow Claimant to return to work until its Form MD-3-RRM was received and processed was in violation of Rules 22 and 37 of the Agreement. The latter Rule governs the assessment of discipline, and we do not consider it to be applicable in the case herein. Rule 22 reads, in pertinent part, as follows:

"In case an employee is unavoidably kept from work he will not be discriminated against. An employee detained from work on account of sickness, or for any other good cause, shall notify his foreman promptly.

UNDERSTANDING--Negotiated Feb. 9-22, 1922.

It is expected that an employee will furnish this information promptly."

The Organization acknowledges there may be a period of time during which the Carrier may evaluate Claimant's ability to return to work, but submits that any time beyond five days would constitute an unreasonable delay. Carrier, on the other hand, asserts it has a right to require sufficient details of the reason for the absence to permit a determination as to whether the employee may safely be returned to duty. Both positions have merit.

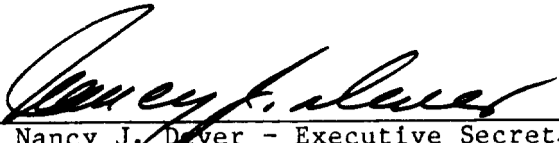
In the record before the Board, we do not have a copy of the original release furnished by Claimant's physician, nor do we have the completed form as required by the Carrier. While the Organization states the first release indicated Claimant could be returned to work without restriction, there is no suggestion it contained any report on the nature of Claimant's illness. When an employee is absent for an extended period of time, as was Claimant, the Carrier has a legitimate interest in knowing the reason for the absence, as well as other facts necessary to determine if he is qualified to return to work. It is the employee's responsibility to provide this information. Once provided, it becomes the responsibility of the Carrier to process it in a timely manner so that the employee is not unreasonably withheld from service.

In the case before us, we conclude the Carrier was justified in requiring the additional information. The evidence indicates the Carrier then acted expeditiously in returning Claimant to work. We cannot find that Claimant was discriminated against in any way as a result of his absence, nor that any other aspect of Rule 22 was violated.

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 8th day of January 1992.