

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISIONAward No. 13063
Docket No. 12650
96-2-93-2-46

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

PARTIES TO DISPUTE: (International Brotherhood of Electrical
(Workers
(
(CSX Transportation, Inc. (former
(Seaboard Coast Line Railroad Company)

STATEMENT OF CLAIM:

- "1. That at Atlanta, Georgia, on July 11, 1991, CSXT violated the controlling agreement, particularly Rule 30, when CSXT Medical Department unjustly removed Mr. C. E. Wilkerson, electrician apprentice. ID 176689, from service alleging Mr. Wilkerson being found medically unqualified to safely perform his assignment.
2. That electrician apprentice C. E. Wilkerson be compensated for eight (8) hours pay at the pro rata rate beginning July 14 through 18, 21, 11(22), and 23, 1991 and be made whole for all vacation rights, for pension benefits, including railroad retirement and unemployment insurance, and for any other benefits he would have earned as said benefits are part of the wages lost by reason of CSXT unjustly removing Mr. C. E. Wilkerson from service alleging being found medically unqualified to safely perform his assignment. Removal from service being in violation of said rule."

FINDINGS:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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 were given due notice of hearing thereon.

Claimant is an insulin-dependent diabetic who was medically disqualified and withheld from service on March 30, 1990. By letter of April 10, 1990, Carrier's Medical Department reminded Claimant of his responsibility (outlined in the letter of March 30, 1990) regarding submission of periodic medical reports on the stability of his condition. Specifically, he was required to submit an updated report every three months. He was also notified in that same letter that he would not receive any further reminders from the medical office, nor would he receive any periodic notice of the quarterly requirement.

Claimant supplied the necessary documents at the end of May 1990, and the beginning of October 1990, and was approved for work each time. The Medical Department did not receive a report from Claimant for January 1991, however. On March 5, 1991, Carrier notified Claimant that he was to be furloughed at the end of his shift. On May 3, 1991, while Claimant was furloughed, the Medical Department sent Claimant a letter, again reminding him to submit the required medical status report. Claimant was recalled to work on May 7, 1991, and ultimately returned to work on June 3, 1991. On July 11, 1991, following a review of Claimant's medical record, Carrier's Medical Department notified his supervisor that he was unqualified to work. The Medical Department also notified Claimant by letter of July 15, 1991, outlining once again the requirements for his continuance on the job. On July 24, 1991, the Medical Department received a satisfactory report from Claimant's physician via FAX and notified the employee of his re-qualification for work.

The Organization seeks payment for Claimant for the days he was withheld from service pending proper notification of Carrier's Medical Department by Claimant's physician. In view of the safety concerns involved, and in view of Claimant's repeated lassitude in complying with Carrier's reasonable reporting requirements, the Board finds no basis on this record for sustaining the claim.

AWARD

Claim denied.

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ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Dated at Chicago, Illinois, this 9th day of December 1996.