

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 14071
Docket No. 13963
14-2-NRAB-00002-130009

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

(International Brotherhood of Electrical Workers
PARTIES TO DISPUTE: (
(BNSF Railway Company

STATEMENT OF CLAIM:

- “1. That in violation of the controlling Agreement, Rules 1 and 8 in particular, the BNSF Railway Company arbitrarily and unjustly removed and withheld Mechanical Department Electrician Gale Roelfs from service, thus depriving Electrician Roelfs of compensation to which he was contractually entitled.
2. Accordingly, the BNSF Railway Company be ordered to promptly make Mechanical Department Electrician Gale Roelfs whole by providing compensation for eight (8) hours per day, five (5) days per week, as well as all overtime which he could have worked while out of service from the date he was removed from service on February 2, 2012 until the date he returned to service, March 14, 2012.”

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 Gale Roelfs, with seniority dating back to 1977, was admitted to the Intensive Care Unit of his hospital after conferring with his personal physician, Dr. Gelfer, on January 11, 2012, when it was determined that his blood pressure was 230/146. According to the record, Dr. Gelfer then released the Claimant to return to unrestricted duty on January 16, 2012. However, the Carrier requires employees resuming work following hospitalization to notify not only their supervisors, but also its Medical and Environmental Health (MEH) Department in order that they may be evaluated for fitness for duty. The Claimant complied with the second of those requirements, but failed to inform his supervisor, Dewey Simmons, that he had been hospitalized. As a result, he reported for duty on January 16 without the knowledge of MEH or its third party administrator (MCMC) for fitness-for-duty evaluations.

Following several requests, MCMC ultimately obtained additional medical documentation from the Claimant's physician on January 30, 2012, and learned that Roelfs was scheduled for a follow-up visit with him that day. The Claimant then provided MCMC with Dr. Gelfer's notes from that consultation on February 1, 2012, in the process disclosing that he had returned to work on January 16 without completing a fitness-for-duty evaluation. Because Gelfer's notes indicated that the Claimant's blood pressure was still dangerously high at 190/100, on February 2 an MEH field officer took his blood pressure at his work site. The Claimant's pressure at that time had risen to 226/137, nearly the same level as when he was rushed to the emergency room several weeks earlier. The Claimant was immediately removed from service, directed to report to his doctor immediately for treatment and directed to supply medical documentation indicating that his blood pressure was under control before returning to work.

On March 13, 2012, Dr. Gelfer forwarded to the Carrier's medical authorities documentation establishing that the Claimant's blood pressure had dropped to a level within the normal range of 150/90 and he returned to work the following day.

In its timely claim on Claimant Roelf's behalf, the Organization contends that because the Claimant's doctor released him to return to duty on January 16, 2012 without limitations, the Carrier unjustly withheld him from service and deprived

him of compensation for the period between February 2 and March 14, 2012. In support, it asserts that the release from the Claimant's physician on January 16 constituted ample grounds for allowing him to remain in service pending further review of his condition by Dr. Gelfer.

The Organization's arguments, while vigorous, leave unscathed the Carrier's central and cross-cancellation contention that it was fully within its rights, and not in violation of the parties' Agreement, by removing the Claimant from service immediately upon determining that his blood pressure was at an unacceptably high level and might pose a danger to himself or to others. BNSF, not unlike other employers, reserves the right to have its own medical officials review cases presenting conditions such as the Claimant's before their return to service, recognizing that they may be better acquainted with the demands of the employee's job than outside medical personnel. The loss of pay at issue here was not attributable to the Carrier, but solely to the Claimant and his personal physician. By not providing the required documentation to the Carrier's medical officials in a timely manner, consistent with analogous precedent relied upon by the Carrier, the Board concludes that the loss of compensation caused by the delay in restoring the Claimant to service until March 14, 2012, was neither unjust nor violative of the parties' Agreement. Accordingly, the claim must be denied.

AWARD

Claim denied.

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 22nd day of January 2014.