

**NATIONAL RAILROAD ADJUSTMENT BOARD  
SECOND DIVISION**

**Award No. 14163  
Docket No. 14009  
16-2-NRAB-00002-140042**

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

**(Brotherhood Railway Carmen-Division of TCU/IAMAW  
PARTIES TO DISPUTE: (  
(The BNSF Railway Company**

**STATEMENT OF CLAIM:**

- “1. That the Burlington Northern Santa Fe violated the terms of our Agreement dated February 1, 2006, in particular Rules 6, 8 and 35, when they prevented the Claimant, Carmen David Sautter, from returning to service until June 11, 2013 after he was released by his personal physician from a physical condition on May 8, 2013.**
- 2. That accordingly, the Carrier be ordered to compensate the Claimant, Carmen David Sautter, one hundred and eighty-four (184) hours of pay at the straight time rate and three hundred twenty-six (326) hours of pay at the overtime rate for arbitrarily withholding him from service from May 8 until June 11, 2013.”**

**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.**

**At the time of this dispute, the Carrier employed Claimant, David Sautter, as a Carmen in the Carrier's Powder River Division in Alliance, Nebraska. On or about April 10, 2012, the Claimant began a medical leave of absence due to an off-duty injury that reportedly involved a basilar fracture of his skull. On May 8, 2013, the Claimant's personal physician prepared and sent the Carrier a one-page document stating that the Claimant had suffered a "basilar skull fracture with concussion," but also stating that his examination on that date appeared "normal" so the Claimant could resume working without restrictions effective May 10, 2013.**

**Since Carmen perform difficult manual work involving heavy equipment in a safety-sensitive environment, it is well established that, in situations like that of the Claimant's, the Carrier has the right to have its own medical officials carefully review the matter to ensure that returning the injured employee to duty will not unreasonably endanger the employee or others. Medical information in the record, from the University of Texas Medical Branch, reflects that basilar skull fractures involve "linear fractures in the skull base, usually a part of a multitude of skull fractures that extend to the skull base." That information further indicates that "the skull base is complex in nature," and that therefore, "basilar skull fractures remain one of the more difficult head and neck fractures to evaluate and treat."**

**On May 9, 2013, the Carrier's Medical Department contacted the Claimant and advised him that the Carrier needed more specific information from his physician to properly evaluate the Claimant's fitness to return to duty. The Claimant supplied the Carrier with supplemental information from his physician on May 21, 2013. Upon reviewing that information, the Carrier's Medical Department on May 24, 2013 instructed the Claimant to contact his Employee Assistance Program and follow the EAP Manager's directions for approval to return to full duty. The Claimant did so and, on June 10, 2013, was approved by the Carrier to resume work on June 11, 2013.**

**The Organization argues that the Carrier was not authorized to delay the Claimant's return to work for a month after the Claimant's physician released him effective May 10, 2013. Therefore, according to the Organization, Rules 6(g) and**

8(a) of the Agreement require the Carrier to compensate the Claimant for the wages he would have earned during that delay.

As stated, however, extensive arbitral precedent establishes that the Carrier is within its rights to have its own medical officials review cases in which an employee, after a serious injury, is released by a treating physician to resume working. The Carrier is entitled to a reasonable opportunity for its medical professionals to review the circumstances and pertinent medical records, to assure that the employee is fit to perform the rigorous and safety-sensitive duties of a railroad Carmen.

In the instant case, the release by the Claimant's physician dated May 8, 2013 disclosed nothing other than the physician's diagnosis of the Claimant's injury and the physician's conclusion that the Claimant could resume working on May 10, 2013. It is the conclusion of this Board that the Carrier was entitled to more detailed medical information concerning the condition of the Claimant and any residual effects of his injury to assess whether and under what conditions the Claimant might be safely returned to Carmen work. It took about two weeks for the Claimant and his physician to supply that additional information to the Carrier. The Carrier then took about two more weeks to assess the additional information and refer the Claimant to the EAP for a final clearance to return to the job.

Given the seriousness of the injury incurred by the Claimant as reported to the Carrier, and the difficulty and hazards inherent in Carmen work, it is the opinion of the Board that the Organization has not carried its burden of proving that the Carrier acted unreasonably or delayed excessively in restoring the Claimant to work. Accordingly, the Board cannot find that the Carrier violated the Agreement, as alleged, by not returning the Claimant to work until June 11, 2013 after his personal physician released him effective May 10, 2013. Consequently, the instant Claim must be denied.

**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 20th day of December 2016.**