

Award No. 1419

Docket No. 1335

2-AT&N-CM-'51

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Frank M. Swacker when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 132, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. (Carmen)**

**ALABAMA, TENNESSEE AND NORTHERN RAILROAD
COMPANY**

DISPUTE: CLAIM OF EMPLOYEES: That Carman Helper R. P. Green was unjustly deprived of his service rights from October 14, 1949 to May 26, 1950 and accordingly, the carrier be ordered to compensate him for all time lost during said period.

EMPLOYEES' STATEMENT OF FACTS: Carman Helper R. P. Green, hereinafter referred to as the claimant, was employed by the carrier as a carman helper at York, Alabama, March 15, 1943. About 11 A. M. September 15, 1949, while pursuing his regular duties, claimant fell from the deck of a car, was made momentarily unconscious and suffered injury to one of his legs. Claimant was given medical attention on the spot by one Doctor C. A. Jackson who was called after it was found that Dr. R. C. Hill, who usually attends employees of the carrier in cases of injury, was not available. After receiving attention from Dr. Jackson, claimant was removed to his home, was examined by Dr. Hill later in the day, and continued under his care until October 13, 1949, at which time he was discharged from treatment and declared able to return to work by Dr. Hill. Claimant reported for work October 13, 1949, and was instructed to report to Dr. G. G. Oswalt at Mobile, Alabama, for an examination. Dr. Oswalt examined claimant on October 14, 1949, and on the same day, addressed the following letter to the carrier:

"I have just finished examining Mr. R. P. Green, and I find him in good condition. His urine is sugar free and there is no albumin present. His blood pressure is normal, reflexes are normal and there are no physical defects except his vision. His left eye has been bad all his life, and he wears a plain lens over this eye with no attempt at correction of the vision of this eye.

Careful history, according to his statements, reveals that he had a black-out in 1937, due to diabetes, which is under control at the present time. In September, 1949, he claims to have lost his balance and fallen off of a car. He was conscious at the time of the fall, but was knocked unconscious by contact with the slag and iron that he fell on. It is impossible to make an examination and

Claim presented by the employes in this case is entirely without merit, and carrier respectfully requests the Board deny the claim.

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 employe 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.

The parties to said dispute were given due notice of hearing thereon.

Whatever the ailment from which claimant suffered may have been that resulted in his "blacking out," the carrier was certainly amply warranted in taking him out of service until it was at least established on his behalf that he was not a hazard to the public, his fellow employes, and himself. When he produced a certificate from his physician to the effect that he was not suffering from the malady supposed, the carrier promptly restored him to service. Under the circumstances there is no warrant for claiming that the carrier acted otherwise than within its duty in the situation. Whatever loss claimant suffered was a consequence of his own misfortune, not of any wrongful act of the carrier.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 2nd day of March, 1951.