

Award No. 3178

Docket No. 2964

2-GN-F&O-'59

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee D. Emmett Ferguson when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 101, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L.—C. I. O. (Firemen and Oilers)**

GREAT NORTHERN RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYES:

1. That under the current agreement Mrs. Ephumia Steele was unjustly removed from service on January 3, 1957 following a physical examination, which took place December 5, 1956.

2. That accordingly the Carrier be ordered to restore the Claimant to her former position and reimburse her for all time lost from January 4, 1957, also costs incurred by Mrs. Steele for examinations conducted by her personal physicians.

EMPLOYES' STATEMENT OF FACTS: Mrs. Ephumia H. Steele, hereinafter referred to as the claimant, was first employed by the Great Northern Railway Company, hereinafter referred to as the carrier, as a laborer at the Hillyard (Spokane) roundhouse of the carrier July 16, 1943. As of May 1, 1954, the facilities of the Hillyard Roundhouse, Hillyard Shops and the Spokane, Coeue d' Alena and Palouse Roundhouse were consolidated, and the claimant assuming the same seniority date on the consolidated roster.

Under date of December 5, 1956 Mrs. Steele was instructed to appear at the office of the carrier physician in Spokane, Dr. Everett B. Coulter, on December 7, 1956 for the customary four year physical examination given all Great Northern employees. Mrs. Steele complied with instructions, and following this examination she returned to, and continued to perform her regular duties as a laborer until January 4, 1957. On January 3 the claimant was notified by letter from Shop Superintendent A. H. Malenke that effective January 4 she would be withheld from service for failure to pass the recent physical examination.

The dispute was handled with carrier officials designated to handle such affairs, all of whom declined to adjust the dispute.

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.

Parties to said dispute were given due notice of hearing thereon.

In this docket grievant was removed from service by the chief medical officer who gave as his reason, "not approved until well".

Thereafter, the carrier and the organization were unable to agree on the details of a tri-partite medical examination.

This Division in the absence of facts upon which to base any findings, herewith remands the docket to the parties for further progression to establish such facts, and it is recommended that a tri-partite medical examination be arranged without any prerequisites or conditions, such as heretofore obstructed the conduct of such medical investigation.

AWARD

The cause is remanded.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassman
Executive Secretary

Dated at Chicago, Illinois, this 20th day of April, 1959.

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

(The Second Division consisted of the regular members and in addition Referee D. Emmett Ferguson when interpretation was rendered.)

INTERPRETATION NO. 1 TO AWARD NO. 3178
DOCKET NO. 2964

NAME OF ORGANIZATION: System Federation No. 101, Railway Employees' Department, A. F. of L.-C. I. O. (Firemen & Oilers).

NAME OF CARRIER: Great Northern Railway Company.

QUESTION FOR INTERPRETATION:

"Do the words in Award No. 3178:

"The cause is remanded."

and the findings of Award No. 3178 reading:

"In this docket grievant was removed from service by the chief medical officer who gave as his reason, 'not approved until well'.

"Thereafter, the carrier and the organization were unable to agree on the details of a tri-partite medical examination.

"This Division in the absence of facts upon which to base any findings, herewith remands the docket to the parties for further progression to establish such facts, and it is recommended that a tri-partite medical examination be arranged without any prerequisites or conditions, such as heretofore obstructed the conduct of such medical investigation.

provide that a tri-partite medical examination be arranged to establish the facts on which findings could be based."

The answer to the question is affirmative. In the absence of facts the Division remanded this cause for further progression to establish such facts. We recommended a tri-partite medical examination.

As a condition precedent to our consideration of the claim we provided that a tri-partite medical examination be arranged.

The request before us does not permit the division to inquire further than the question asked and we decline to rule on anything more.

The record before the division at this time shows that the cause is still remanded "to the parties for further progression."

Referee D. Emmett Ferguson who sat with the Division as a member, when Award No. 3178 was adopted, also participated with the Division in making this interpretation.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 20th day of January 1960.