

Award No. 6269

Docket No. 6072

2-SCL-CM-'72

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Don J. Harr when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 42, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (Carmen)**

SEABOARD COAST LINE RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the current applicable agreement the Carrier violated said agreement when Carman J. J. Lord, Jr. was not permitted to work his regularly assigned position on December 10, 1969, at Jacksonville, Florida.

2. That accordingly the Carrier be ordered to compensate Carman J. J. Lord, Jr. eight (8) hours at straight time pro rata rate of pay.

EMPLOYEES' STATEMENT OF FACTS: Carman J. J. Lord, Jr. holds a regularly assigned position in Jacksonville, Florida.

On the morning of December 8, 1969 Carman Lord marked off for that day and possibly for the following day due to a sore foot.

On the afternoon of December 9, 1969, Supervisor, J. H. Glass, carried a letter (copy attached hereto as Exhibit "A") to Carman Lord stating that Mr. Lord must have a doctor to verify that he was able to perform his duties.

Carman Lord, after being informed that he must see a doctor, called his Local Chairman and informed him that the ankle injury was minor and that he had not intended to see a doctor and further that it was his intention to report to work the next morning, December 10, 1969.

Mr. H. L. McKeller, Local Chairman, advised Carman Lord to go to the doctor as required by the Carrier due to the fact that it was possible that the Carrier might charge him with insubordination if he did not.

Mr. Lord reported to the doctor on December 10, 1969 and was immediately released to return to duty.

Mr. Lord returned to work on December 11, 1969.

Awards upholding Carrier's position in this case, which have been mentioned to the General Chairman in handling on this property are Second Division Awards 1384, 3137, 4148, 4158, 4244, 4609, 4808, 5641 and 5652, among others.

The Claimant disqualified himself on December 8, 1969 — not the Carrier. The Claimant reported for work on December 11 with statement from his personal physician returning him for service on December 11 — not before. The Carrier permitted the Claimant to return to work on December 11, the date he was released by his doctor. Time lost by the Claimant is his own responsibility and not that of the Carrier.

Carrier reaffirms its position that there has been no violation of the Agreement in this instance, and respectfully requests that your Board deny this claim in its entirety.

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 waived right of appearance at hearing thereon.

On the morning of December 8, 1969, Claimant marked off for that day and possibly the following day due to an injured ankle. Claimant advised his Supervisor that he had turned his ankle while hunting during the past weekend.

On the afternoon of December 9, 1969, Claimant's Supervisor delivered a letter to Claimant's home advising him that he must have a medical report before he could be permitted to return to work.

Claimant advised his Supervisor that he had not intended to go to a doctor, but intended to stay off his foot for a few days and return to work. His Supervisor pointed out that Bulletin No. 55, dated March 29, 1968, concerning proper procedures to be followed when absent because of personal injury must be adhered to.

Claimant reported to his personal physician on December 10, 1969, and returned to work on December 11, 1969, with a report stating that he was able to return to work on December 11, 1969.

The claim before the Board is for one day's pay due to the Claimant not being allowed to work his designed position on December 10, 1969.

Management's prerogative to issue rules similiar to those involved in Bulletin No. 55 has been established by many awards of this Board. See Third Division, N.R.A.B. Awards 8502, 10073, 11492, 12454, 13667, 13725, 16639 and 18317.

The Employes attempt to show that the Carrier's action amounted to discipline. Discipline is not involved in a case of this nature. See Second Division, N.R.A.B. Awards 2799 and 4099.

The Carrier's action was not arbitrary or unreasonable in requiring the Claimant to submit a statement from his personal physician regarding his physical condition. See Second Division, N.R.A.B. Award 6048 (Harr) involving the same parties.

We will deny the claim.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **SECOND DIVISION**

ATTEST: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 22nd day of March 1972.