

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISIONAward No. 6622
Docket No. 6516
2-SP(PL)-SMW-'74

The Second Division consisted of the regular members and in addition Referee David Dolnick when award was rendered.

Parties to Dispute: { Sheet Metal Workers' International Association
{
{ Southern Pacific Transportation Company
{ (Pacific Lines)

Dispute: Claim of Employees:

1. That Sheet Metal Worker C. A. Davies was unjustly and arbitrarily withheld from the service of the Southern Pacific Transportation Company (Pacific Lines) from December 9, 1971 until April 3, 1972;
2. That accordingly, the Carrier be ordered to:
 - A. Compensate Claimant for all time lost between December 9, 1971 and April 3, 1972;
 - B. Make Claimant whole for all vacation rights;
 - C. Pay the premiums for hospital association dues, surgical and medical benefits for time held from service;
 - D. Pay premiums for group life insurance for time held from service;
 - E. Pay Claimant for all medical and doctor bills incurred as result of being withheld from service.

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.

Carrier has made a motion to dismiss the claim because it was not timely presented under Rule 38 of the applicable agreement. Claimant was advised on December 17, 1971 that the Carrier's Chief Medical Officer had concluded that the Claimant was medically unfit for service. No claim was filed until May 22, 1972, about 157 days after the claim occurred. Rule 38(b) provides that: "Any claim or grievance not presented within sixty (60) days of the occurrence on which based will be deemed to have been abandoned." The time limit issue was raised on the property by the Carrier.

Carrier's motion is granted. The claim is barred.

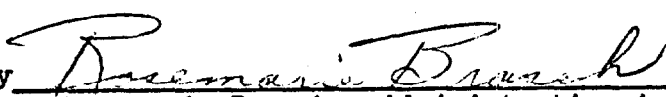
A W A R D

Claim is dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 15th day of January, 1974.