

The Second Division consisted of the regular members and in addition Referee Nicholas H. Zumas when award was rendered.

Parties to Dispute: (System Federation No. 45, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Carmen)
(St. Louis Southwestern Railway Company

Dispute: Claim of Employees:

1. That the St. Louis Southwestern Railway Company violated the controlling agreement when Carman Levell Singleton was denied his rights to service November 4, 5, 6, 7, and 8, 1974.
2. That the St. Louis Southwestern Railway Company be ordered to compensate Carman Levell Singleton eight (8) hours pay at the pro rata rate for November 4, 5, 6, 7, and 8, 1974, a total of forty (40) hours.

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.

Claimant was employed as a carman at Carrier's Pine Bluff Car Shop. On October 24, 1974, while on duty, Claimant "blacked out" and was taken to the emergency room of the Jefferson Hospital in Pine Bluff. He was examined by his personal physician and later by a physician under contract with Carrier. As a result of these examinations, Carrier's Chief Medical Officer ordered additional tests by a neurosurgeon at Little Rock, some 40 miles from Pine Bluff.

Claimant was examined by the neurosurgeon on October 30, 1974, and forwarded a copy of his findings each to Claimant's personal physician and the physician under contract with the Carrier, Dr. Sullenberger. The neurosurgeon asked Dr. Sullenberger to forward a copy of the report to Carrier's Chief Medical Officer. Carrier's Chief Medical Officer received the copy of the neurosurgeon's report on November 11, 1974, and Claimant was returned to work the same day. The Chief Medical Officer has his office at Houston, Texas.

Claim is made for 40 hours at the pro rata rate for time lost on November 4, 5, 6, 7 and 8, 1974. The Organization asserting that Dr. Sullenberger indicated on November 1, 1974 that Claimant, on the basis of the neurosurgeon's report, was fit to return to work as far as he (Dr. Sullenberger) was concerned. (November 2 and 3 were Claimant's rest days).

It is the opinion of the Board that Carrier, under the circumstances, was correct in its judgment that the Carrier's Chief Medical officer was the proper physician to release Claimant for work. There is no showing that Dr. Sullenberger, a physician under contract with Carrier to perform physical examinations, had such authority. Moreover, there is no showing that there was an unreasonable delay involved.

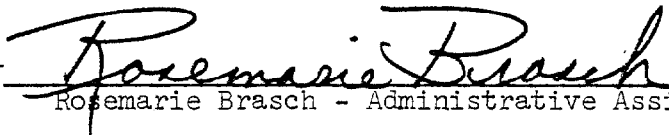
A W A R D

Claim denied.

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 8th day of November, 1977.