

The Second Division consisted of the regular members and in addition Referee Dana E. Eischen when award was rendered.

Parties to Dispute: (System Federation No. 2, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Carman)
(
(Missouri Pacific Railroad Company

Dispute: Claim of Employees:

1. That the Missouri Pacific Railroad Company violated the rights of Carman C. F. Doll, Wichita, Kansas, by withholding him from service since January 21, 1975.
2. That accordingly, the Missouri Pacific Railroad Company be ordered to compensate Carman Doll in the amount of eight hours (8') per day at straight time rate, five (5) days per week beginning May 3, 1975, until returned to 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.

Claimant, a Carman at Carrier's car repair facility at Wichita, Kansas, was given a medical disqualification which he disputes in this claim. Following absence from his assignment as a result of knee surgery Claimant's personal physicians released him to return to work in January 1975. In accordance with Carrier's physical examination policy, Claimant was required to present himself for physical examination by a Carrier physician. This examination showed that Claimant, a man of 45 years of age, was 6 feet 1 inch tall and weighed in excess of 280 pounds. Carrier's Chief Medical Officer, upon discovery that Claimant's height-weight ratio was so far in excess of acceptable standards of Carrier, found that Claimant was not qualified medically to return to service at that time. He also found further that Claimant would not be qualified to return to service until he reduced his weight to 250 pounds. This information was conveyed to Claimant's Supervisor from the Chief Surgeon in a letter dated January 30, 1975.

The Organization alleges that Carrier improperly withheld Claimant from service on this basis. The Carrier contends the claim is barred under the time limits and, notwithstanding the foregoing, Carrier's withholding of Claimant from service was based on a reasonable application of its physical standards by the Chief Surgeon as found appropriate in recent Award 7230 of this Division.

Upon consideration of the entire record and prior decisions, particularly Award 7230 between these same parties, we conclude that Carrier's height/weight standards are reasonable and have been reasonably applied in this case. Claimant, by failing to reduce his weight to 250 pounds in accordance with the instructions of the Chief Surgeon, has in effect voluntarily withheld himself from service. See also Awards 3561, 4609 and 5902. So far as the record shows the advise of the Chief Surgeon was not only based upon reasonable standards but ultimately upon his concern for the health of Claimant as well as the safety of Claimant and his fellow employes on the job.

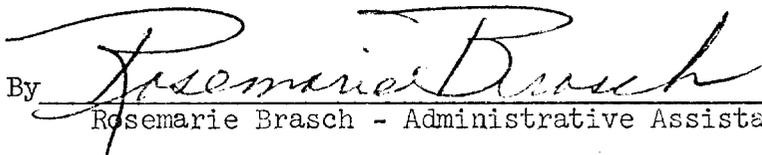
We have no occasion to reach and express no opinion upon the procedural time limit question raised herein.

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 19th day of May, 1978.