

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

Parties to Dispute: (Brotherhood Railway Carmen of the United States and Canada)
(Missouri Pacific Railroad Company)

Dispute: Claim of Employees:

- 1. That the Missouri Pacific Railroad Company violated Rule 32 of the controlling Agreement and Article 6 of the Conditions of Employment when they withheld Carman R. B. Hess from service for special medical examination from January 3, 1978 until January 13, 1978.
- 2. That the Missouri Pacific Railroad Company be ordered to compensate Carman R. B. Hess for eight (8) hours at the pro rata rate for January 9, 10, 11, and 12, 1978.

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 November 11, 1977, Claimant, a carman at Carrier's Barton Street mechanical facility in St. Louis, was marked off duty because of personal illness. On January 3, 1978, he reported to the Barton Street Shop with a statement from his personal physician certifying that he was released to return to duty on Monday, January 9. Claimant was instructed by Carrier to report to the Sutter Clinic for medical examination on January 4. Claimant did so, and the examination was conducted as scheduled. The results of such examination were forwarded to Dr. E. T. Rouse, Carrier's Chief Medical Officer, who received the reports. Dr. Rouse reviewed the file and approved Claimant's return to work on the 12th; however, the authorization was not received in time to permit Claimant to work on such day, and he was not allowed to work until January 13. He seeks pay for time lost on January 9, 10, 11 and 12.

The Agreement does not specify how long Carrier may take to return an employe to duty under circumstances such as those before us. It is uniformly conceded that a carrier has a reasonable time to conduct its own examination of an employee returning from medical leave and to evaluate the results of

such examination. The decisions of this Division hold that, in the absence of unusual circumstances, a five (5) day period allows a carrier an adequate amount of time for evaluation of medical data where there are no complications.

In our Award No. 8113, which resolved a dispute between the instant parties, we held:

"In the absence of complications or the requirement for unusual testing, the Board finds that the five-day limit began with the day following the examination..."

The award further makes clear that the five days are to be working days available to the medical officer. Therefore, in the dispute before us:

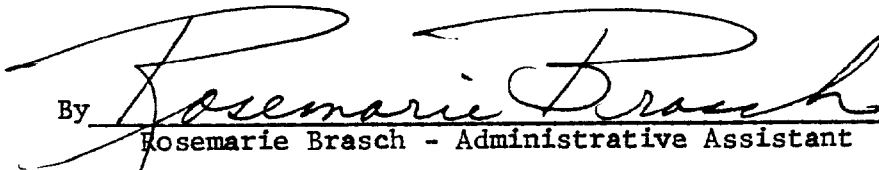
The examination took place on Wednesday, January 4. The five working days would be Thursday the 5th, Friday the 6th, Monday the 9th, Tuesday the 10th and Wednesday the 11th. Carrier was obligated to restore Claimant to duty on January 12, 1978. His claim is good for that day only.

A W A R D

Claim sustained to the extent indicated above.

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 5th day of November, 1980.