

The Second Division consisted of the regular members and in addition Referee Peter R. Meyers when award was rendered.

(Brotherhood Railway Carmen of the United States
(and Canada
PARTIES TO DISPUTE: (
(Seaboard System Railroad Company (L&N)

STATEMENT OF CLAIM:

1. That the former Louisville & Nashville Railroad Company, now a part of the Seaboard System Railroad Company and hereinafter referred to as the Carrier, violated the controlling Agreement, particularly but not limited to Rule 34, when it withheld Carman T. L. Edwards hereinafter referred to as the Claimant, for five (5) working days commencing on November 8, 1985 after the local company doctor released him to return to service.

2. And accordingly, the Carrier should be ordered to compensate Claimant for the time lost as the result of said violation or five (5) days at the pro rata rate in effect on November 8, 1985.

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 employes 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 is employed as a Carman by the Carrier at its Etowah, Tennessee, facility. On November 7, 1985, Claimant was given permission to be off from work because of back pain. Claimant reported to work on November 8, 1985, and was told to report to Carrier's local doctor for an examination; the local doctor found Claimant was physically able to return to service. Claimant was not allowed to return to work until Carrier's Chief Medical Officer reviewed the local doctor's findings. The Chief Medical Officer cleared Claimant for return to service on November 15, 1985. The Organization thereafter filed a Claim on Claimant's behalf, asserting that Carrier had improperly withheld Claimant from service after the local doctor had cleared him.

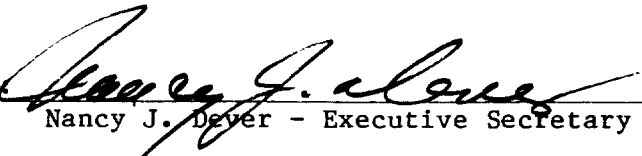
This Board has reviewed the record in this case, and we find that the Carrier had no legitimate basis to keep the Claimant from returning to work after the Carrier's own medical officer had examined Claimant and found him fit to return to work. The Carrier certainly has a right to have its Chief Medical Officer also review the findings; but without any indication from the Carrier's medical doctor that anything was wrong with the Claimant, the Carrier improperly held the Claimant out of service. If the Carrier chooses to hold the Claimant out of service until a second opinion is received, then it must do so at its own expense. Claimant was ready to return to work after the Carrier's original doctor gave him a clean bill of health. Therefore, the Claim must be sustained.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 3rd day of August 1988.