

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 11542
Docket No. 11203
88-2-85-2-344

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

PARTIES TO DISPUTE: (Sheet Metal Workers International Association
(
(Southern Pacific Transportation Company
((Western Lines)

STATEMENT OF CLAIM:

1. That the Carrier violated Rules 26 and 39 of the current Motive Power and Car Department Agreement.

2. That claimant Richard Brown be compensated by the Carrier for 208 hours pay at his straight time rate for the period of time November 2, 1984 to December 7, 1984.

FINDINGS:

The Second Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employees 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.

The essence of this Claim, which was filed on December 20, 1984, concerns the Claimant's physical ability to perform the normal range of a Sheet Metal Worker duties. The record shows that the Claimant had a series of medical problems. On November 1, 1984, his physician released him for return to duty, but with a restriction that he could not lift over fifty (50) pounds during the performance of his work. The Carrier determined that there were no jobs available that could satisfy the medical restriction placed on the Claimant.

Although there are various and sundry allegations and contentions advanced by both parties, essentially it is the Carrier's determination (that it did not have a position available to match the Claimant's physical condition) which is being challenged here.

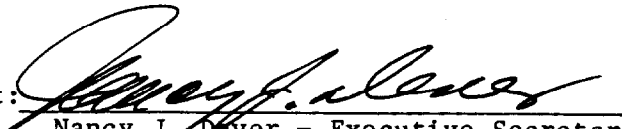
We have carefully considered the evidence properly before us and have weighed the well-stated arguments of the parties. Clearly, there was a physical limitation that prevented the Claimant from successfully performing the normal tasks required of a Sheet Metal Worker. And, while the Carrier in its general role as an employer may be expected to view and sympathetically consider an employee's physical limitations with respect to its employment practices, it is not required to create a position under the circumstances of record. We find no evidence that a proper position was available which could have accommodated the medical restrictions placed upon the Claimant.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 31st day of August 1988.