

The Second Division consisted of the regular members and in addition Referee John C. Fletcher when award was rendered.

PARTIES TO DISPUTE: (Brotherhood Railway Carmen/Division of TCU
(Pacific Fruit Express Company

STATEMENT OF CLAIM:

1. That the Pacific Fruit Express Company violated the controlling agreement, particularly Rules 19, 20, 21 and 37, when Carman C. E. Fritz was recalled to service on January 14, 1987, but was not permitted to begin work until February 10, 1987.

2. That accordingly, the Pacific Fruit Express Company be ordered to compensate Carman Fritz for all work days lost beginning on the date of January 14, 1987 to February 10, 1987, Tucson, Arizona.

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.

This is another Claim similar to that involved in our Award 11827 in that it involves allegations that Carrier was dilatory in returning an employe recalled from furlough to service.

In this case Claimant was furloughed on July 31, 1984. He was recalled by letter dated January 14, 1987. Claimant did not respond to recall until January 23, 1987. He was given a return to duty physical on January 27, 1987. Carrier's Chief Medical Officer received completed paperwork on this examination on February 5, 1987. That same date Claimant's Supervisor was advised that he was approved for return to duty. However, Claimant did not have a telephone and was not advised of the approval until several days later when he contacted Carrier. He returned to work on February 10, 1987.

We have difficulty in seeing any merit to a Claim that Carrier was dilatory, or somehow responsible for a delay, in returning Claimant to service in the circumstances of this case. There is a four day lapse between the day he reported for recall and the date he was given a physical examination. This is by no means excessive. There is a nine day lapse between the date of the physical and the date it was received in Carrier's Chief Medical Examiners Office. It is possible that the forms could have been delivered in a day or two less, but again, there is no showing that it is excessive.

The day that the paperwork was received, Claimant's Supervisor was notified by phone that he was approved for return to service. Any delay that occurred thereafter was caused by the fact that Claimant could not be contacted by phone.

It is our view that this Claim is without merit and it will be denied.

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 7th day of March 1990.