

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 I. Vences was recalled to service on December 11, 1986, but was not permitted to begin work until January 29, 1987.

2. That accordingly, the Pacific Fruit Express Company be ordered to compensate Carman Vences for all work days lost beginning on the date of December 11, 1986 to January 29, 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 employee or employees involved in this dispute are respectively carrier and employee 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.

We have considered a number of disputes between Petitioner and Carrier wherein it has been alleged that Carrier somehow violated the Agreement when it was dilatory in returning recalled Carmen Welders to service at Tucson, Arizona, in late 1986 and early 1987. See for example our Award 11827.

In this case Claimant was mailed his recall notice on December 11, 1986. He responded on December 15, and was given his physical examination on December 17. As was the case with several other recalled Carmen, Claimant did not sign his Medical Examination Form. It was returned to him for signature.

Carrier's Chief Medical Officer received the signed form on January 7, 1987. After reviewing the data on the form a medical determination was made that Claimant had high blood pressure. By letter dated January 12, 1987, Claimant was advised that before he could be cleared for return to duty it would be necessary for him to return to his physician and be placed under medical supervision for his condition.

This Claimant did. On January 24, 1987, Claimant's personal physician advised Carrier's Medical Officer that Claimant was under his supervision and care and was being treated for high blood pressure. On this advice, Carrier's Medical Director authorized a return to duty on January 28, 1987, which occurred on January 29.

There are Awards of all Divisions of this Board, legion in number, that conclude that Carrier has license to withhold employees from service in circumstances where minimum medical standards are not met. The conduct of the Chief Medical Officer in refusing to allow Claimant to return to duty until such time as his high blood pressure condition, which incidentally goes undisputed in this record, is placed under supervision and treatment appears prudent under the circumstances.

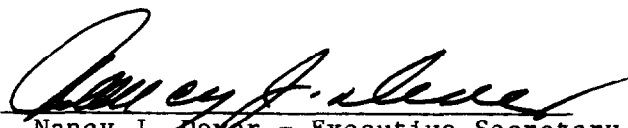
The Claim will be denied.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Deyer - Executive Secretary

Dated at Chicago, Illinois, this 7th day of March 1990.