

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 12575
Docket No. 12524
93-2-92-2-50

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 TCU
(Chicago and North Western Transportation
Company)

STATEMENT OF CLAIM:

- "1. Carman Jerry Dirks, Council Bluffs, Iowa, was deprived of work and wages to which he was entitled when the Chicago and North Western Transportation Company violated Rules 14, 16 and 25 of the controlling Agreement when he was not allowed the right to exercise his seniority on October 1, 1990 upon return from a leave of absence.
2. Accordingly, Carman Jerry Dirks be paid one (1) day's wages at the straight time rate (\$114.08), plus all overtime that he was entitled to on October 1, 1990."

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.

Claimant was on a leave of absence. Pursuant to Rule 25(i), Claimant, on September 17, 1990, notified the Carrier that he wanted to return to service and was given a return to duty physical on the afternoon of September 19, 1990. On Friday, September 28, 1990, Claimant was medically approved to return to service. On Monday, October 1, 1990, Claimant was not allowed to displace on Position 027 and that generated this claim.

Carrier explains what occurred as follows:

"On Friday morning, the Medical Department notified the Equipment Maintenance Department that Claimant was cleared to return to work. Later in the day, the Car Department notified their supervisor in Council Bluffs that claimant had been cleared medically to return to work. However, the supervisor was not at that location on Friday. Upon returning to work on Monday--the first work day after the notification--he notified the claimant that he had been cleared to return to work and he could return to work the following day--the second of October."

On the basis of the foregoing, the claim is sustained for October 1, 1990 except that there is no evidence in the record to support the allowance of any overtime.

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Catherine Loughrin
Catherine Loughrin - Interim Secretary to the Board

Dated at Chicago, Illinois, this 8th day of September 1993.