

NATIONAL RAILROAD ADJUSTMENT BOARD  
SECOND DIVISIONAward No. 12670  
Docket No. 12516  
94-2-92-2-34

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

(International Brotherhood of Firemen and  
(Oilers  
PARTIES TO DISPUTE: (  
(Grand Trunk Western Railroad

STATEMENT OF CLAIM:

- "1. That under the current and controlling agreement, Fireman and Oiler Quanzell Zirker was unjustly withheld from returning to service after he notified Carrier on June 10, 1990, he was able to physically do so.
2. That accordingly, Quanzell Zirker be compensated for 128 hours at the time and one-half rate for being improperly denied his rights under the provisions of the Agreement to return to service."

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 employe 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 Claim seeks compensation on the basis that Claimant was improperly withheld from service between June 12, and July 6, 1990.

Claimant injured his back while on duty on April 24, 1987. He was on Medical Leave of Absence subsequent to that date, until he attempted to return to duty, effective June 14, 1990. Carrier had reservations concerning the "Doctor's Release" Claimant submitted when he attempted to return, in view of the fact that he had lost three years work. Accordingly, it requested that he supply

additional information, which was done. Further, on June 28, 1990, Claimant was seen by Carrier's Chief Medical Officer, who evaluated his condition and approved his return to work without restrictions.

The record contains a copy of the initial "Doctor's Release" Claimant submitted on June 10, 1990, indicating that he "may return to work 6/14/90." This release did not contain any information concerning what Claimant was being treated for, what his diagnosis and prognosis was, whether he was taking any medication, and whether he had any work restrictions. All that the release indicated was that Claimant was released for duty on June 14, 1990.

In the circumstances present here, it was appropriate for Carrier to question the release and continue to disallow Claimant to work until he supplied adequate information on his condition, medication, if any, and restrictions, if any. Further, after supplying this necessary information, it was appropriate for Carrier to continue to withhold Claimant from service until after he had been seen by a Carrier Doctor, and until after its Chief Medical Officer had an opportunity to evaluate his situation.

There is no showing that Carrier delayed in having Claimant seen by its doctor. Further, there is no showing that inordinate delay occurred in the Chief Medical Officer's evaluation and approval for work. Finally, there is no showing that inordinate delay occurred in returning Claimant to duty after the Chief Medical Officer's approval was received. The Claim is without merit.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest:

  
Catherine Loughrin - Interim Secretary to the Board

Dated at Chicago, Illinois, this 9th day of March 1994.