

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISIONAward No. 12771
Docket No. 12627
94-2-92-2-174

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

PARTIES TO DISPUTE: (Sheet Metal Workers International Association
(
(National Railroad Passenger Corporation
((Amtrak)

STATEMENT OF CLAIM:

- "1. The Carrier violated the provisions of the current and controlling agreement, and in particular Rules 22(b) and 24(b) of said agreement when on October 25, 1991, they refused to allow Sheet Metal Worker Paul D. Crouch to return to work after medical leave and further, refused to allow the Claimant his contractual right to be examined by an impartial medical doctor. The Carrier violated the time limits provisions of Rule 24(b) when they failed to respond to an appeal for lost wages within the prescribed time limits.
2. That accordingly, the Carrier be directed to compensate the Claimant for all time lost from October 25, 1991, at the pro rata rate and further, make him whole for any contractual benefits he or his dependents may have been deprived of during the period he was improperly withheld from 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 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.

A threshold issue to be decided concerns the allegation of the Organization that Carrier did not comply with the time limits requirements of the Agreement, in that its denial of the initial claim was beyond the sixty day period provided in Rule 24. The facts demonstrate that a claim was filed on February 4, 1992 seeking, inter alia, that Claimant be paid wages for every day he had been held out of service since October 25, 1991. This claim was denied on June 12, 1992. Rule 24 requires that claims be denied within 60 days of the date filed. The denial was well beyond this time frame. Accordingly, the claim must be allowed as presented. Claimant is entitled to be paid for all wage losses occurring between October 25, 1991 and June 12, 1992.

AWARD

Claim sustained.

O R D E R

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Dated at Chicago, Illinois, this 17th day of November 1994.