

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 12900
Docket No. 12704
95-2-92-2-177

The Second Division consisted of the regular members and in addition Referee Eckehard Muessig when award was rendered.

(International Association of Machinists and
(Aerospace Workers
PARTIES TO DISPUTE: (
(Consolidated Rail Corporation

STATEMENT OF CLAIM:

- "1. The Consolidated Rail Corporation arbitrarily violated Rules 2-A-1, 2-A-3, 2-A-4, 3-C-3, 3-C-4, 3-F-1, 4-F-1, 4-P-1, 8-J-1, and Appendix "G" of the May 1, 1979 Controlling Agreement, but not limited thereto, when they refused to return Machinist R. Shaw to service with all rights unimpaired and to pay him for all lost time, wages and benefits from and including January 2, 1991 (excluding any compensation received from the Carrier starting on June 17, 1991 through October 15, 1991).
2. That accordingly, Consolidated Rail Corporation be ordered to return Machinist R. Shaw to active service with all rights unimpaired and pay him for all lost time, wages and benefits for the period from and including January 2, 1991 (excluding any compensation received from the Carrier starting on June 17, 1991 through October 15, 1991) until he is returned to service.
3. For identification purposes: Carrier's file No. MA-44.)"

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.

The essential facts and circumstances in this case are the same as in Second Division Award No. 12899. It involves the same incident, essentially the same record of on-the-property handling and seeks an identical remedy from the Carrier, i.e., removal of the medical disqualification and payment of all lost wages.

The Board, on the basis of many past holdings by the National Railroad Adjustment Board, finds that this claim is a improper pyramiding of claims, which renders the second claim progressed to the Board (the instant claim) procedurally defective. See, for example, Third Division Award No. 28427 and Fourth Division Award No. 4590. Accordingly, the claim is dismissed.

AWARD

Claim dismissed.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Dated at Chicago, Illinois, this 16th day of August 1995.