

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19484
Docket Number SG-19332

Alfred H. Brent, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
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(Norfolk and Western Railway Company

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Norfolk and Western Railway Company that:

(a) Carrier violated the current Signalmen's Agreement when Mr. F. L. Rettinger was improperly held out of service after his physician released him to return to work on June 4, 1969.

(b) Carrier now pay Signal Maintainer F. L. Rettinger for all time lost from June 4, 1969, until August 29, 1969, when he was instructed to return to work.

OPINION OF BOARD: There is no dispute about the fact that the Claimant suffered a coronary attack which incapacitated him and prevented him from working for almost six months. The Organization does not contest the right of the Carrier to require a review of the medical records of employees who apply to return to work after a serious illness and upon release by their personal physician. What the Organization does claim here is that in the course of that review there was unnecessary delay and procrastination by the Carrier's Medical Department in arranging for the Claimant to be admitted to Lewis Gale Hospital in Roanoke, Virginia for observation and examination.

The Claimant was released by his own personal physician on June 3, 1969 as fit for work. He was examined by a Carrier physician on June 4, 1969 who would not authorize his return to work. On July 18, 1969 the Carrier wrote to the Claimant requesting that he report to the Lewis Gale Hospital on August 4, 1969, which he did, and where he was confined from August 4 to August 8, 1969. He was permitted to return to work on August 29, 1969.

The Organization's claim that the prolonged delay between the Claimant's application to return to work and his actually being permitted to report for work was rejected by the Carrier as unjustified because they had to wait at least 27 days for the medical report of the claimant's personal physician and, as a non-emergency patient, August 4th was the earliest possible date the Carrier's Medical Department could arrange at the hospital.

Upon receipt of the report of its own physician, the Carrier should have promptly proceeded to make arrangements for a further examination of the Claimant at the Lewis Gale Hospital. This Board has previously held that a prolonged delay in processing a Claimant's medical examination is unnecessary and a denial of his rights. Therefore the claimant should be made whole for lost wages from August 1, 1969 to August 29, 1969 in accordance with Rule 52, Section 3 of the Agreement between the parties.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier and the Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Agreement was violated.

A W A R D

The Claimant should be made whole for lost wages as indicated in the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

E. A. Killen
Executive Secretary

Dated at Chicago, Illinois, this 17th day of November 1972.