

NATIONAL RAILROAD **ADJUSTMENT** BOARD

THIRD DIVISION

Award Number 20810  
Docket Number MW-20681

Francis X. Quinn, Referee

**PARTIES TO DISPUTE:** (Brotherhood of Maintenance of Way Employes  
(**J. F. Nash** and **R. C. Haldeman**, Trustees of the Property  
( of Lehigh Valley Railroad Company, Debtor

**STATEMENT OF CLAIM:** Claim of the System Committee of the Brotherhood that:

(1) The Carrier improperly and without justification withheld from service

Area Foreman Paul P. Porter	from... <b>Oct.</b> 2 to 17, 1972
Truck Driver Clayton Berger	from... " " " " "
Laborer Albert Sachs	from " " " " "
Laborer Wallace <b>Schanufer</b>	from " " " " "
Truck Driver John <b>Duda</b>	from " 5 " " "
Laborer Lamar <b>Purnell</b>	from " 12 " 17 "
Laborer Frank Klatchak	from " " " " "
Laborer Franklin Koch	from " " " " "
Laborer Frank <b>Plusar</b>	from " " " " "
Crane Operator Raymond Graaf	from " 3 to Dec. 3, 1972

(all dates listed above are inclusive)

(2) Each of the claimants named above be paid for the earnings lost while out of service as set forth in Part (1) above.

**OPINION OF BOARD:** The Board has established by case law that the filing of notice of intent with this Board within the nine months prescribed by Article V of the August 21, 1954 National Agreement satisfies the **time** limitation and the prescriptions of the Railway Labor Act.

**Rule 8** allows for physical examinations of employes; however to contend that the instant physical examinations were pre-employment physicals is stretching to **make** a point. Claimants were **employes** in service. They were improperly held out of service. They are due **compensation** for such wage loss during that period of time.

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

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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**

Claim sustained.

**NATIONAL RAILROAD ADJUSTMENT BOARD**  
By Order of Third Division

ATTEST: *A. W. Paulson*  
Executive Secretary

Dated at Chicago, Illinois, this 29th day of August 1975.