

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26117
Docket Number MW-26161

Philip Harris, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(The Chesapeake and Ohio Railway Company
(Southern Region)

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

(1) B&B Mechanic H. C. Rakes shall be returned to his position as B&B Mechanic and he shall be compensated for all compensation loss suffered by him as a result of being improperly withheld from service beginning September 28, 1983 (System File C-TC-1947/MG-4331)."

OPINION OF BOARD: Claimant had an off-premises injury in December, 1982, causing him to be away from his job for nine months. On September 28, 1983, he sought to commence work based on the authorization of his personal physician. However, the Carrier's doctor did not allow him on the job because he was not yet deemed physically fit to resume his normal duties (climbing, bending, walking overhead, etc.). On March 22, 1984, he was permitted back on the job, and is appealing to be made whole for the six months of lost time.

The Board agrees with the Carrier's position to rely on its Company doctor in such matters. Also, it is an industry practice that in the event of a disagreement between two physicians, a third opinion is sought. The Organization should have known this, and the Claimant failed to obtain this additional opinion, the content of which it is impossible to know and assess at this juncture.

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 not violated.

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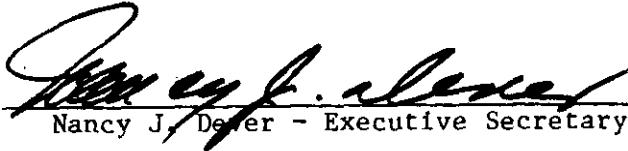
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Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 19th day of September 1986.

