

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION

Award No. 27789  
Docket No. MW-27309  
89-3-86-3-422

The Third Division consisted of the regular members and in addition Referee Rodney E. Dennis when award was rendered.

PARTIES TO DISPUTE: ( (Brotherhood of Maintenance of Way Employees  
(Union Pacific Railroad Company

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

(1) The Carrier improperly withheld Sectionman G. C. Kavanagh from service for the period beginning on May 7, 1985 and extending through July 10, 1985 (Case No. D-38/013-210-50).

(2) The Carrier shall now allow Sectionman G. C. Kavanagh compensation for each day within the claim period described in Part (1) hereof."

FINDINGS:

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

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employes 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.

Claimant was employed by Carrier as a Sectionman on the Oregon Division. On May 7, 1985, Claimant was withheld from service account Carrier officials felt it was in the best interest of Claimant's health and safety. Claimant had been injured in an off-duty auto accident on October 17, 1983. He was on medical leave for over one year as a result of the injuries. On December 3, 1984, Claimant was medically released to return to duty. Upon returning to work, he frequently complained that certain twisting resulted in severe pain and partial blackouts. Based on Claimant's comments about his condition and the observation of Claimant at work by Carrier officials, it was decided on May 7, 1985, to relieve Claimant from service and obtain medical documentation for his ability or inability to properly perform his duties.

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After considerable correspondence and discussion of the situation, Claimant was directed on June 6, 1985, to return to work when he felt capable. He did not return until July 11, 1985. A claim was filed requesting pay for Claimant from May 7, 1985, through July 10, 1985. In an attempt to settle the claim Carrier offered Claimant a \$500 lump sum payment. Claimant refused the \$500 payment and processed his claim to the Board for resolution.


This Board has reviewed this record and it is persuaded that Carrier was more than justified in removing Claimant from service in an attempt to make sure he could perform his railroad job without unexpectedly passing out on the job. When Carrier was satisfied that Claimant could do his job, he was told to return to work.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

  
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 29th day of March 1989.