

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 27978
Docket No. CL-27226
89-3-86-3-304

The Third Division consisted of the regular members and in addition Referee Martin F. Scheinman when award was rendered.

PARTIES TO DISPUTE: (Transportation Communications International Union
(Bessemer and Lake Erie Railroad Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood (GL-10098) that:

1. Carrier violated the effective Clerks' Agreement when it refused to compensate Mr. R. C. Myers for September 28, 1984, a day on which he was absent from service due to personal illness;

2. Carrier shall now compensate Mr. Myers, eight (8) hours' pay at the rate of his position for September 28, 1984."

FINDINGS:

The Third 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 employees 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.

On September 27, 1984, Claimant became ill with a headache during his tour of duty. He was seen by Carrier's Medical Department on September 27, 1984, and on September 28, 1984, he was examined by his personal physician. Claimant was denied sick leave compensation for his visit on September 28, 1984.

The Organization maintains that Claimant's absence for a scheduled doctor's appointment for follow-up treatment is compensable under the provisions of Sick Leave Allowance.

Carrier, on the other hand, argues that a scheduled doctor's appointment is not a "bona fide illness" and as such is not allowable as a sick leave benefit. It further maintains that the medical documentation submitted by Claimant is not satisfactory evidence to substantiate his alleged sickness.

We shall dispose of this case in like with our ruling in a similar Claim in Third Division Award 27977. There, we sustained the Organization's argument that a scheduled doctor's appointment is not excluded from coverage under the Sick Leave Allowance provided proper medical documentation is submitted. In addition, we do not agree that Claimant failed to submit proper medical documentation here. Claimant's physician submitted a diagnosis along with the treatment provided. Such diagnosis was consistent with the claim filed with Carrier's Medical Department on September 27, 1984.


Accordingly, we shall sustain this claim.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

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