

The Third Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees  
(  
(Soo Line Railroad Company (former Chicago,  
( Milwaukee, St. Paul and Pacific Railroad Company)

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

(1) The Carrier violated the Agreement when it improperly withheld Section Laborer D. R. Biskupski from service beginning March 16, 1987 until April 27, 1987 (System File C #06-87/800-17-C-63).

(2) The Claimant shall be allowed compensation for all wage and benefits loss suffered as a consequence of the violation referred to 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 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.

The Claimant sustained an off-duty injury to his back on February 22, 1987. He advised the Roadmaster as to his initial period of absence. On March 3, the Carrier wrote to the Claimant requesting a Health Status Report from his physician.

The Claimant supplied such information by March 13. The medical report indicated the Claimant would be able to return to duty March 16, but with a 75-pound weight limitation.

Based on the contents of this report, the Carrier's Medical Director determined that further information was required. Here, the record is less than clear as to when the Claimant was advised as to this requirement. As a result, the Claimant did not receive specific information as to need for further examination until April 14. He was subsequently examined and permitted to return to work on April 24.

The Organization contends the Claimant was improperly withheld from service commencing March 16, the date on which he was first released in a limited capacity by his doctor. The Carrier argues that it properly required further medical investigation based on comments in the report from the Claimant's doctor.


Under the circumstances herein, the Board finds no fault with the Carrier's determination to require additional medical review of the Claimant. There was, however, some period of delay not attributable to the Claimant or to actual medical review. The Award will therefore sustain the Claim for the period from March 24, 1987 through April 13, 1987.

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

  
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 21st day of June 1990.