

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION

Award No. 28841  
Docket No. MS-29257  
91-3-90-3-129

The Third Division consisted of the regular members and in addition Referee Carol J. Zamperini when award was rendered.

(Doris Daniels  
PARTIES TO DISPUTE: (  
(Soo Line Railroad Company

STATEMENT OF CLAIM:

"Carrier violated the effective agreement at Bensenville, IL when it denied award of Eighty (80) hours pro rata, account held out of service July 20, thru July 31, 1988, when Medical Service did not release me in a timely manner."

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 had been out of service for more than thirty (30) days due to an off-duty injury. On or near July 20, 1988, she notified the Carrier that her personal physician had released her for work with restrictions. In response, the Carrier advised the Claimant, "In order to confirm the reason for your time off work and ensure fitness upon return to work, it is necessary that the attached Health Status Report be completed by your physician."

The Carrier's Medical Service Department did not receive the required report until August 1, 1988. On the same day, the Claimant was advised she could return to work. Approximately two weeks later the Claimant filed a claim for eighty (80) hours pay because she was held out of service by the Carrier's Medical Service from July 20, thru July 31, 1988. Her claim was denied.

The Claimant, through the Organization, continued to appeal the denial through the various levels of management. While the matter was being pursued, the Carrier at the Organization's request, agreed to extend the time limits on the claim. On March 8, 1990, the Claimant notified the National Railroad Adjustment Board of her intent to file an Ex Parte Submission on her own behalf.

The matter is now before this Board.

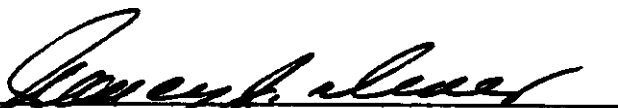
A carrier has the right to expect its employees returning from illness or injury to be physically fit to perform their duties. It has been a long standing practice in this industry to require medical verification of an employees fitness. It is incredible that this is not common knowledge among employees. Even if that were not the reality, the Claimant, in this case, must bear the responsibility for not being returned to work more expeditiously. Upon being advised of the requirement to have her physician fill out the Medical Report, she should have communicated to her doctor the significance of completing the report in a timely manner. If she did this, it was her doctor who delayed in processing the needed report not the Carrier. If she failed to provide the proper direction to her physician, then she must bear the burden of being off work longer than required. As far as the Carrier is concerned, the evidence shows that the Medical Service Department released the Claimant for work the same day they received the required report. They were not guilty of needless delay.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST:

  
Nancy J. Defer - Executive Secretary

Dated at Chicago, Illinois, this 25th day of June 1991.