

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 29805
Docket No. CL-30279
93-3-92-3-232

The Third Division consisted of the regular members and in addition Referee Robert G. Richter when award was rendered.

(Transportation Communications International
(Union
PARTIES TO DISPUTE: (
(Elgin, Joliet and Eastern Railway Company

STATEMENT OF CLAIM: "Claim of the System Committee of the
Brotherhood (GL-10784) that:

1. Carrier violated the effective agreement when it withheld Ms. Fannie Moore from service on and after January 24, 1991, without just cause;
2. Carrier shall now restore Claimant to service and shall compensate her for all time lost at the rate of the position she elects to displace to for January 24, 1991, and for each and every day thereafter that she is withheld from service."

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 employee 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 off duty due to illness beginning July 21, 1990. On January 23, 1991, she attempted to return to work presenting a release from her personal physician stating she was able to return to work. On January 24, 1991, Carrier's Chief Medical Officer wrote the Claimant's physician for additional information concerning his treatment of Claimant.

On February 19, 1991, the Chief Medical Officer wrote the Claimant informing her that her personal doctor had not responded to his letter of January 24, and that she would remain out of service until he received the information he requested. The Carrier sent Claimant's doctor three more letters, the last dated March 27, 1991. On April 25, 1991, the Claimant was informed in writing that her doctor still had not furnished the Carrier with any information as to the care and treatment of the Claimant. Claimant never responded to the letter and she remained out of service.

This Board has held numerous times that the Carrier has right to investigate Claimant's physical condition upon a request to return to work after an absence for medical reasons. (See Third Division Awards 22288, 24254, 29035.) The Board's review of the record before us reveals that the Carrier acted in a diligent manner in examining the Claimant as well as corresponding with her doctor for additional information. The agreement was not violated and the claim will be denied.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: Catherine Loughrin
Catherine Loughrin - Interim Secretary to the Board

Dated at Chicago, Illinois, this 29th day of September 1993.