

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 32585
Docket No. MW-31232
98-3-93-3-306

The Third Division consisted of the regular members and in addition Referee John C. Fletcher when award was rendered.

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

STATEMENT OF CLAIM:

"Claim of the System Committee of the Brotherhood that:

- (1) The Carrier's decision to withhold Mr. V. Cantu, Jr. from service from January 30 through March 4, 1992 was an abuse of its discretion and in violation of the Agreement (Carrier's File 920352 MPR).
- (2) As a consequence of the violation referred to in Part (1) above, Mr. Cantu shall be compensated for all wage loss suffered including any overtime and holiday pay he would have been entitled to during the period in question."

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 were given due notice of hearing thereon.

Claimant was withheld from service (without pay) for slightly less than one month in February 1992, while Carrier required that he be physically and psychologically evaluated to determine if he could perform the duties of his job safely. Following this evaluation, Claimant was placed in a work-hardening type program, for seven workdays beginning February 26, 1992 through March 5, 1996, for which he was paid the straight time rate of his bulletined position. Claimant was allowed to return to his bid position on March 6, 1992.

The Organization filed a time claim contending that it was an Agreement violation to withhold Claimant from his job between January 30, 1992 and March 4, 1992.

In the attendant circumstances of Claimant's physical and mental evaluation it was not an Agreement violation to withhold Claimant from service for "medical" reasons.

The claim is without merit. It will be denied.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 22nd day of May 1998.