

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20810  
Docket Number MW-20681

Francis X. Quinn, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees  
(J. F. Nash and R. C. Haldeman, Trustees of the Property  
( of Lehigh Valley Railroad Company, Debtor

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

(1) The Carrier improperly and without justification withheld from service

Area Foreman Paul P. Porter from...	Oct. 2 to 17, 1972
Truck Driver Clayton Berger from...	" " " " "
Laborer Albert Sachs from	" " " " "
Laborer Wallace Schanufer from	" " " " "
Truck Driver John Duda from	" 5 " " "
Laborer Lamar Purnell from	" 12 " 17 "
Laborer Frank Klatchak from	" " " " "
Laborer Franklin Koch from	" " " " "
Laborer Frank Plusar from	" " " " "
Crane Operator Raymond Graaf from	" 3 to Dec. 3, 1972

(all dates listed above are inclusive)

(2) Each of the claimants named above be paid for the earnings lost while out of service as set forth in Part (1) above.

OPINION OF BOARD: The Board has established by case law that the filing of notice of intent with this Board within the nine months prescribed by Article V of the August 21, 1954 National Agreement satisfies the time limitation and the prescriptions of the Railway Labor Act.

Rule 8 allows for physical examinations of employees; however to contend that the instant physical examinations were pre-employment physicals is stretching to make a point. Claimants were employees in service. They were improperly held out of service. They are due compensation for such wage loss during that period of time.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier and the Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act, as approved June 21, 1934;

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That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Agreement was violated.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST: A. W. Paulos  
Executive Secretary

Dated at Chicago, Illinois, this 29th day of August 1975.