

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21189  
Docket Number SG-20900

Francis X. Quinn, Referee

PARTIES TO DISPUTE: { Brotherhood of Railroad Signalmen  
{ The Long Island Rail Road Company

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Long Island Rail Road Company:

On behalf of Mr. Angelo Licata for sick leave allowance for August 7, 1973.

OPINION OF BOARD: There has been no attempt by the Organization to deny the existence of a concerted job action on August 7 and 8, 1973. However, the record is clear that the Claimant was absent on August 7, 1973 because of a previously arranged dental appointment. The Claimant did receive dental treatment on the claim date, whereas there is only the Carrier's speculative assertion that if that had not taken place he would have either not reported for work or would have left his job early. Evidence prevails over speculation. We will sustain the claim.

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;

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:

  
Executive Secretary

Dated at Chicago, Illinois, this 13th day of August 1976.