

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24582
Docket Number SG-24353

Herbert L. Marx, Jr., Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(Southern Railway Company

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Southern Railway Company, et al.:

On behalf of L. M. Campbell, Signalman, Brosnan Yard, Macon, Georgia, for 8 hours' pay each day June 2, 3, 4, 5, 6, 9, and 10, 1980, account delay in returning to work after a doctor testified in Court he could return any time.

OPINION OF BOARD: Claimant was out of service for one year owing to an alleged on-duty disability. When he reported to return to work on June 2, 1980, he was subject to a return-to-work physical examination. The examination was scheduled for the following day, and the results were returned to the Carrier's Chief Surgeon on June 9. The Claimant was notified the following day, June 10, that he could return to work.

The Organization argues on behalf of the Claimant that the Chief Surgeon had testified, in a law suit heard just prior to June 2, that the Claimant was fit for duty. Thus, argues the Organization, against any delay beyond June 2 in permitting the Claimant to return to work. The Carrier responds without contradiction that the Chief Surgeon's testimony was confined to the Claimant's hearing ability only.

The Carrier has in effect a routine procedure that employes out of service for 30 days or more are required to take a physical examination. Under the circumstances, there is no reason that the Claimant herein should be exempted from such procedure in view of his year's absence. The testimony of the Chief Surgeon in the law suit is obviously no substitute.

Many previous awards have dealt in favor of claims where there is undue delay in returning employes to work after a physical examination or where there is delay in scheduling such examination. In this instance, the examination was scheduled immediately, and a completion of the procedure within eight days is not excessive.

There was some confusion as to whether a conference on the claim had taken place on the property prior to referral of the dispute to this Board. In view of the Board's findings, however, this requires no review.

FINDINGS: This 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 Employee 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

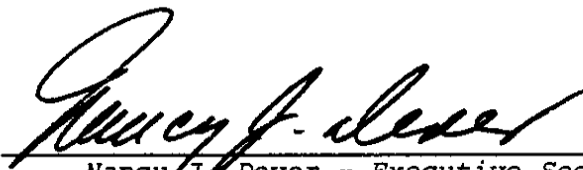
That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois this 15th day of December 1983.

