

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25064
Docket Number MW-24844

I. M. Lieberman, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(Chicago, Milwaukee, St. Paul and Pacific Railroad Company

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

(1) The Carrier improperly withheld Laborer Otto Lindner from service for the period beginning on May 5, 1981 and extending through July 22, 1981 (System File C#24/D-2513).

(2) The claimant shall be compensated for all wage loss suffered, including overtime pay, sixty (60) days retroactive from August 15, 1981."

OPINION OF BOARD: Claimant herein had been on furlough and was recalled to a new position, on May 21, 1981. He was examined by his physician on June 4, 1981 and the results of that examination were received by Carrier's medical department on June 8, 1981. On June 16, 1981, the Medical Services Department requested additional information from Claimant's Doctor which was received by Carrier on July 6, 1981. Carrier thereafter advised Claimant to return to work on July 24, 1981. It was based on this period of time from the initial job assignment until July 24th that the Claim is founded.

There is no question but that Carrier had the right to investigate and then review the medical data concerning this Claimant. However, there is the concomitant obligation for Carrier to move with reasonable speed to come to its conclusions, since the employee's rights and ability to work are at stake. In this case, based on the record, there is no apparent reason for the lengthy time frame required to review the necessary medical data. It would appear that a week to review the supplemental data required in this case, and supplied on July 6th, should have been sufficient to make the determination. Under all the circumstances, therefore, Claimant shall be awarded nine days pay for the inordinately long period of time required by Carrier to make the medical determination.

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 in accordance with the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 4th day of October 1984.