

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25634
Docket Number SG-25477

Lamont E. Stallworth, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(Seaboard System Railroad

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Seaboard System Railroad (former Seaboard Coast Line Railroad Company):

(a) Carrier violates the current Signalmen's Agreement as amended particular (sic) Rule 47, Discipline, when it removed claimant (Signal Maintainer Jerome Brunson) from service at 12:00 noon on November 2, 1982.

(b) Carrier should now restore claimant to service and make him whole for all lost wages both straight and overtime and all other benefits of the signalmen's Agreement.

(c) Carrier shall establish lost wages by a showing of its payroll records to the General Chairman.

[Carrier file No. 15-47 (83-14) General Chairman's File No. 16-(47)-82-Jerome Brunson]

OPINION OF BOARD: Claimant was assigned to the position of Signal Maintainer at Indianatown, Florida effective November 1, 1982. Due to adverse weather conditions which prohibited outside activity on that date, he was instructed to accompany a Signal Inspector to Fort Lauderdale, Florida. Weather permitting, he intended to familiarize himself with his newly assigned maintenance district the next day.

On the following day, Claimant was unable to locate a particular signal location. He requested directions to the location from Carrier's Assistant Supervisor Communications and was removed from service effective at 12:00 noon with a directive to report to Carrier's Chief Medical Officer.

Claimant was examined by various physicians who, depending upon the report, indicated that he was taking psychotropic medication or no medication. Claimant was diagnosed as being affected with a "psychotic episode" and "no abnormalities that would indicate any psychotic disturbance". Recommendations include return to duty with no restrictions; return to duty with transfer to another job; do not return to duty and apply for disability retirement.

A claim was initiated by the Organization's General Chairman on December 27, 1982, citing the contention that Carrier had violated the Signalmen's Agreement and particularly Rule 47 of the Agreement.

Claimant was reinstated to service by the Chief Medical Officer on January 7, 1983, but restricted to signal gang work.

This case was progressed in the usual and proper manner including discussion on July 19, 1983 with the highest officer of the Carrier designated to hear such disputes.

Upon a careful consideration of the record in its entirety the Board concludes that Carrier's actions were proper under the circumstances. There is no need to detail the mental health specifics concerning Claimant. It is sufficient to find that there is substantial evidence on the record to conclude Claimant was suffering from a mental disorder at the time the instant claim was filed.

The Board notes that there are numerous National Railroad Adjustment Board decisions which clearly support a Carrier's right to direct and require an employe to be examined by a psychiatrist or psychologist as long as such actions are not based on arbitrary and capricious reasons. First Division Award 23157, Second Division Awards 7134, 7230, 7364, 7863, 9499, 10207; Third Division Awards 18512, 18700, 19328, 20086, 20547, 20548 and 24933. In the instant case, the Carrier's action demonstrates a prudent concern with the overall responsibilities for the safety of the employe, its operation, and the public. Second Division Awards 7134, 7151, Third Division Awards 6753, 8175, 11029, 14173, 22553.

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 Employes involved in this dispute are respectively Carrier and Employes 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 19th day of September 1985.

