

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26263
Docket Number SG-26440

Edward L. Suntrup, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(Southern Pacific Transportation Company
(Western Lines)

STATEMENT OF CLAIM: "Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Southern Pacific Transportation Company (Western Lines):

On behalf of B. R. Dishman for payment from February 17 to March 19, 1984, account of not being restored to service upon medical release. (Carrier File: 011-221-(D))."

OPINION OF BOARD: The record shows that on January 16, 1984, the Claimant advised the Company that he was going to be released by his personal physician in order to return to work and he requested an appointment for a medical examination. The Claimant had been off duty for over thirty (30) days with a serious illness. On February 13, 1984, the Claimant took his physical, and on February 17, 1984, he was released by his doctor to return to work. The Claimant was permitted to return to work by the Carrier on March 20, 1984.

The Organization filed a Claim on April 24, 1984, on the grounds that the Carrier had taken an excessive amount of time before permitting the Claimant to return to work. The Claim stated that "... the company (was given) four weeks notice of (the Claimant's) desire to return to his position (which the Organization feels is) sufficient." The Claim was for 8 hours pay for each day, including holidays, from February 13, 1984, through March 19, 1984. It is basically the position of the Carrier that the delay in putting the Claimant back to work was not undue and that such matters take time.

There is considerable precedent emanating from the Board which holds Carriers liable for "...undue and unwarranted delay(s) in ascertaining a returning worker's physical fitness" (Second Division Awards 6758, 6704, 7247; Third Division Award 21560; Fourth Division Award 2948). It appears from the record that the Carrier did take undue time in the instant case in returning the Claimant to work. He was released by his own doctor on February 17, 1984. It would have been reasonable for the Carrier to have processed all the papers and to have had the Claimant back to work by the end of that month. The Claimant shall, therefore, be paid all loss of earnings from March 1, 1984, up to and including March 19, 1984.

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

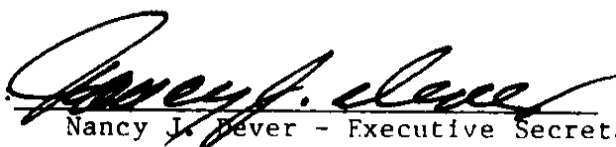
That the Agreement was violated.

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 20th day of March 1987.