

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26333  
Docket Number SG-27010

Paul C. Carter, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen  
(  
(Baltimore and Ohio Railroad Company  
( Chessie System)

STATEMENT OF CLAIM: "Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Baltimore and Ohio Railroad Company (Chessie System Railroads):

On behalf of Signalman R. A. Hitchcock, compensation for all time lost and reinstated to service account of Carrier violated Rules 54 and 65 when it denied him permission to return to work as a Signal Foreman beginning January 26, 1985. (Carrier File 2-SG-760)."

OPINION OF BOARD: The Claimant had been in Carrier's service since September 24, 1969, and was promoted to Signal Foreman on July 19, 1971. Claimant had a history of back problems and had been on medical leave since April 23, 1983, due to recurrent back ailment.

On January 26, 1985, Claimant submitted Claim to the Carrier's Manager Engineering for all wages lost from January 26, 1985, claiming that the Carrier was improperly withholding him from service. The Manager Engineering responded that Carrier's Chief Medical Officer and Claimant's physician agreed that Claimant had a lifting restriction and could not perform all the duties of a Signal Foreman's position. The record contains no medical evidence that Claimant's personal physician disagreed with the Carrier's Chief Medical Officer. The Organization contends that Claimant's back problems started in 1972; that he had been off from work in the past because of his back, and had been permitted to return to service, and that the situation in January, 1985, was no different than in the past.

The Board recognizes that the Carrier has the right to set physical standards for its employees, and has the right to expect its employees to meet such standards. There being no dispute as to Claimant having a lifting restriction in January, 1985, the Carrier was justified in not permitting him to return to work as a Signal Foreman. The Board finds, however, that Claimant should be permitted, if he desires, to undergo another physical examination by Carrier's Chief Medical Officer, within sixty days from the date of the Order of this Award, to determine if he can pass a satisfactory physical examination without any restriction. We will sustain the Claim to that extent only. It is not the intent that Claimant be awarded any compensation until he can pass a satisfactory physical examination.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

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

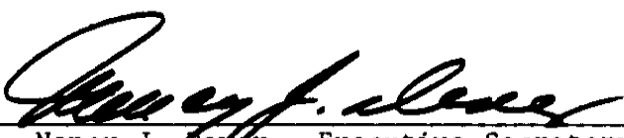
That the Agreement was not violated.

A W A R D

Claim disposed of in accordance with the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

  
Nancy J. Dexter - Executive Secretary

Dated at Chicago, Illinois this 8th day of June 1987.