

The Third Division consisted of the regular members and in addition Referee John C. Fletcher when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees  
(  
(Burlington Northern Railroad Company (former St. Louis-  
( San Francisco Railway Company)

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

(1) Mr. M. W. Hughes shall be compensated for all compensation loss suffered by him as a result of being improperly withheld from service August 1 through September 17, 1985."

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employes within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

On July 18, 1985, Claimant, who was suffering from an eye infection, was placed on sick leave. On August 1, 1985, he sought to return to work. At that time he was given a physical examination which detected sugar in his urine. Claimant was not allowed to return to work.

The matter was referred to Carrier's Chief Medical Officer who requested information from Claimant's personal physician regarding sugar in the urine. On September 12, 1985, Claimant's Doctor performed diabetes tests. The results were furnished Carrier's Medical Officer on September 16, 1985, which date Claimant was cleared for return to duty, which occurred the next day, September 17, 1985.

The Claim before this Board seeks compensation for the period which Claimant was out of service.

Many Awards of this Board have concluded that Carrier has the right to hold an employee off the job when he is seeking to return to service from medical leave while his physical condition is being evaluated. In cases where

Carrier took an inordinate length of time to make such evaluations we have awarded payment for part of the time lost. However, this case is not one in which it appears that Carrier did not act promptly to evaluate Claimant's condition.

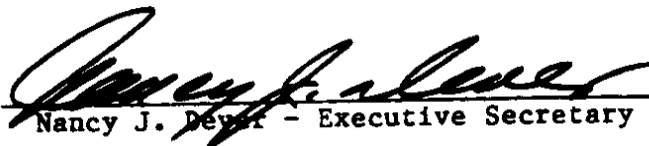
It seems that the same day that the test results were received from Claimant's Doctor, Carrier's Medical Department certified him fit for duty. Claimant returned to service the next day. Any delay that occurred was caused by events within Claimant's control, participation in the tests and forwarding the results to Carrier's Medical Department. Accordingly, it cannot be said that Claimant was improperly withheld from service.

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 16th day of October 1989.