

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 28268
Docket No. MW-27714
90-3-87-3-173

The Third Division consisted of the regular members and in addition Referee Irwin M. Lieberman when award was rendered.

(Brotherhood of Maintenance of Way Employees
PARTIES TO DISPUTE: (
(Burlington Northern Railroad Company (formerly The
Colorado and Southern Railway Company)

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

Trackman R. Nanney shall be compensated for all wage loss suffered by him (ten days) and allowed expenses incurred by him as a result of being improperly withheld from service from August 27, 1985 to September 6, 1985 (System File BN-20-85/DMWD 84-12-04A)."

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.

Claimant was withheld from service from August 27 to September 5, 1985, on medical leave of absence. He had taken a return to service physical examination on May 29, 1985, which included a drug screening test. He had been assigned to work on a regular basis after his physical examination. By letter dated June 20, 1985, he was informed that the drug screening test showed the presence of an illegal drug and he was instructed to report to the Employee Assistance Counselor within seven days. This he failed to do. Subsequently he was removed from service and placed on medical leave by Carrier for purposes of an evaluation by the Employee Assistance Counselor.

This dispute, but for the dates and the Claimant, is identical to the dispute handled by this Board in Award 28267. The arguments and the rationale used in the determination in that case is entirely applicable to this matter. For the reasons specified in Award 28267 this Claim also must be denied.

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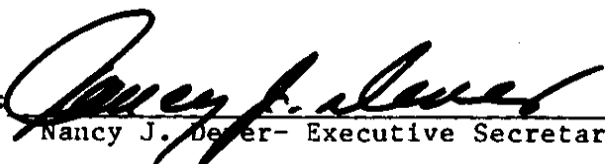
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A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Decker - Executive Secretary

Dated at Chicago, Illinois, this 28th day of February 1990.