

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 31465
Docket No. CL-32098
96-3-94-3-482

The Third Division consisted of the regular members and in addition Referee Robert Richter when award was rendered.

PARTIES TO DISPUTE: (Transportation Communications International
(Union
(National Railroad Passenger Corporation
((AMTRAK)

STATEMENT OF CLAIM: "Claim of the System Committee of the Organization (GL-11084) that:

(a) The Carrier violated the NEC Clerks Rules Agreement effective September 1, 1976, as amended and revised particularly Rules 1-B-1, 2-A-1, 4-A-5, 6-A-1, 8-D-1 and others when it arbitrarily medically disqualified Claimant Timothy E. Geeson effective close of business June 4, 1992, from position Train Director, K Tower, Union Station, Washington, DC.

(b) That Claimant Timothy E. Geeson now be allowed eight (8) hours at the appropriate pro-rata rate of his position, or the position he would have displaced to on Seniority District No. 1, for each and every work day, beginning June 5, 1992, until properly returned to active service, as well as any other compensation that would have been due or otherwise available to claimant during the aforementioned period account to this violation.

(c) This claim is presented in accordance with Rule 7-B-1 and should be allowed."

FINDINGS:

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

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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 employed as a Train Director at the Carrier's K Tower, Union Station, Washington, D.C. On June 3, 1992 Claimant informed the Carrier that a medical condition was going to require his use of a mood altering drug. Inasmuch as the Train Director position involved the movement of trains a medical disqualification was requested by the Claimant. After consultation with the Claimant's doctor and a further examination by a Carrier appointed physician, Claimant was medically disqualified from the Train Director position. Claimant subsequently exercised seniority to a Baggage Foreman position.

The Organization filed this claim averring the Carrier violated a host of Rules. Yet, after a thorough review of the record, it failed to show how the Carrier violated the Rules. The Organization bears the burden to show that the Carrier violated the Agreement. It has not done so in this case.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 25th day of April 1996.