

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 33994
Docket No. CL-34707
00-3-98-3-364**

The Third Division consisted of the regular members and in addition Referee Edwin H. Benn when award was rendered.

**(Transportation Communications International Union
PARTIES TO DISPUTE: (
(Burlington Northern Santa Fe Railway Company**

STATEMENT OF CLAIM:

“Claim of the System Committee of the Organization (GL-12042) that:

- 1. Carrier denied the payment of sick leave benefits to Mr. G. C. Longsdorff for May 16, 17, 20, 21, 22, 23, 24, 27, 28, 29, 30, and 31, 1996 for a total of \$1416.48; June 3, 4, 5, 6, 7, 10, 11, 12, 13, and 14, 1996 for a total of \$1180.04; and June 17, 18, 19, 20, and 21, 1996 for a total of \$486.36.**
- 2. Carrier must now compensate Mr. Longsdorff for twenty-seven (27) days sick leave benefits as provided in the Working Agreement for a total of \$3082.88.”**

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 were given due notice of hearing thereon.

The Claimant is a clerical employee at the Carrier's Peasco, Washington Material Department with a seniority date of September 3, 1970. The Claimant asserts that he sustained an injury on duty on May 8, 1996, which caused him to be absent from work on various days in May and June 1996.

The Carrier denied the Claimant's requests for sick leave benefits for dates during May and June 1996 on the ground that "[s]ick leave benefits are not applicable under the current Agreement to employees who have allegedly sustained an on-duty injury." The Claimant had sufficient sick days accumulated to cover the period requested.

Aside from the fact that the Carrier's leave claim form makes repeated references to "injury" and gives the employee the option of requesting "sick leave," Rule 55 mandates payment for "sickness" and does not make the distinction between sickness and injury on duty that the Carrier seeks in this case. It is a fair interpretation that an employee who is "injured" and cannot work is also "sick."

However, the Claimant is not entitled to receive multiple payments for the days in question. The Carrier can offset any monies paid to the Claimant as a result of the Claimant's recovering payments in other forums for the dates in question as a result of losing work because of his injuries or because of his receipt of any other compensation covering the dates at issue in this case.

AWARD

Claim sustained in accordance with the Findings.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

**NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division**

Dated at Chicago, Illinois, this 19th day of April, 2000.