

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 41572
Docket No. MW-41854
13-3-NRAB-00003-120131**

The Third Division consisted of the regular members and in addition Referee Dr. Lou Imundo when award was rendered.

**(Brotherhood of Maintenance of Way Employees
(Division of the IBT Rail Conference
PARTIES TO DISPUTE: (
(BNSF Railway Company (former Burlington
(Northern Railroad Company)**

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The Agreement was violated when the Carrier withheld Mr. V. Pella from service beginning September 19, 2008 and continuing (System File C-09-P018-6/10-09-0084 BNR).**
- (2) As a consequence of the violation referred to in Part (1) above, Claimant V. Pella shall now ‘. . . be paid for all straight time and overtime that he has been denied during the claim period beginning September 19, 2008, and continuing until the Carrier returns the Claimant to work.’”**

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 Board has determined that the Carrier could, and should have acted in a more timely manner to obtain the additional medical information about the Claimant in order to make the decision regarding when, or if, he could return to work with or without restrictions. The Board finds that the Claimant should be compensated for 30 days for the Carrier's unnecessary delay.

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 18th day of March 2013.