

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 43434  
Docket No. SG-44245  
19-3-NRAB-00003-170311**

**The Third Division consisted of the regular members and in addition Referee Paul Betts when award was rendered.**

**PARTIES TO DISPUTE: (**  
**(Brotherhood of Railroad Signalmen**  
**(Union Pacific Railroad Company**

**STATEMENT OF CLAIM:**

**“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Union Pacific Railroad:**

**Claim on behalf of S.A. Carson, for 64 hours at his straight-time rate of pay, account Carrier violated the current Signalmen's Agreement, particularly Rules 5, 53, and 65, when it improperly withheld the Claimant from service without compensating him from January 4-8, and 11-13, 2016, due to its failure to properly inform him of what documentation was necessary to return to service. Carrier's File No. 1650678. General Chairman's File No. S-5, 53, 65-1547. BRS File Case No. 15550-UP.”**

**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.**

**In the instant claim, the Organization alleges the Carrier violated the Agreement when it improperly withheld the Claimant from service without compensation from January 4-8, and 11-13, 2016, due to its failure to properly inform the Claimant of the documentation needed to return to service.**

**The Organization argues a) the Claimant followed all Carrier instructions regarding his return to service, b) the Claimant's return to service was unreasonably delayed by misinformation and negligence from his supervisor, and c) the Claimant is entitled to lost earnings under Rule 65.**

**The Carrier argues a) the Carrier did not create any undue delay in returning the Claimant to service, b) the Organization failed to prove any violation of Rules 5, 53, or 65, and c) although the Organization blames the supervisor for failing to turn in a request for sick leave, thereby allegedly causing a delay in the Claimant's return to service, the record does not support this finding.**

**After a thorough review of the record, the Board finds the Organization failed to meet its burden. In the instant case, the Claimant was on a medical leave of absence for back surgery performed in November 2015. On Friday, January 1, 2016, the Claimant sent his return to work (RTW) note to his supervisor. On Monday, January 4, 2016, (the first workday back following the holiday) the Health and Medical Services (HMS) department contacted the Claimant requesting supporting documentation regarding his return to service. The Claimant provided HMS with the requested documentation on Friday, January 8, 2016. On Wednesday, January 13, 2016, HMS cleared the Claimant to return to work.**

**Taking note of the timeline above, the Board finds the HMS department was responsive at all stages of the process, both when the Claimant provided the initial RTW form, as well as when he provided the requested medical documentation. Furthermore, the record does not show that the Claimant's supervisor in any way delayed the Claimant's return to service. Here, the Carrier was diligent and acted quickly in returning the Claimant to service. As such, the claim must be denied.**

**Although the Board may not have repeated every item of documentary evidence, nor all the arguments presented, we have considered all the relevant evidence and arguments presented in rendering this Award.**

**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 1st day of March 2019.**