

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 44088  
Docket No. SG-45549  
20-3-NRAB-00003-190421**

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

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

**STATEMENT OF CLAIM:**

**“Claim on behalf of B.K. Anderson, to return to service with all seniority and benefits unimpaired, account Carrier violated the current Signalmen’s Agreement, Particularly Rule 49, when it improperly extinguished his seniority on December 11, 2017.”**

**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 improperly found that the Claimant voluntarily forfeited his seniority when he failed to provide required information to the Carrier’s Health and Medical Services department (HMS).**

**In summary, the Organization argues a) the Claimant did not resign from service, b) the Claimant never received the certified letters from the Carrier requesting**

additional information regarding his Medical Leave of Absence because he had moved from his prior residence, and c) the Carrier's arguments are unsubstantiated.

In summary, the Carrier argues a) the Carrier had the obligation to determine if the Claimant needed an extension to his MLOA, b) the Organization failed to satisfy its burden of proof, and c) the remedy demanded is unsupported by facts of record.

At the time of incident, the Claimant was on a Medical Leave of Absence (MLOA). By certified letter dated 8/31/17, the Carrier notified the Claimant that his MLOA was extended through 9/26/17. The 8/31/17 letter also advised the Claimant that if he was "...not released to return to work prior to the conclusion of this leave, you must provide medical documentation from your treating physician(s) that supports your continued absence prior to the conclusion of your leave..." Although the Claimant signed for the 8/31/17 certified letter on 9/7/17, he failed to return to service by the 9/26/17 MLOA expiration date and failed to provide any medical documentation at that time justifying an extension to the 9/26/17 expiration date.

By certified letter dated 10/10/17, the Carrier again requested the Claimant provide documentation by 10/31/17 that would extend his MLOA. In relevant part, the 10/10/17 letter stated "Failure to provide requested information by the noted deadline is a violation of your Collective Bargaining Agreement, including self-executing termination provisions. It is critical you promptly respond to avoid disciplinary action..." Again, although the Claimant signed for the 10/10/17 certified letter on 10/13/17, he failed to provide any medical documentation at that time justifying an extension to the MLOA.

By certified letter dated 11/6/17, the Carrier again requested the Claimant provide medical documentation by 11/20/17 justifying extension to his MLOA. The record is void any evidence that the Claimant signed for the 11/6/17 certified letter, but indicates no documentation was received by the Carrier at that time justifying an extension to the MLOA by the 11/20/17 deadline.

Based upon the Claimant's failure to respond to the Carrier's repeated requests for medical documentation, the Claimant was notified via certified letter dated 12/11/17 that he had self-terminated his seniority under Rule 49(a) and was no longer employed by the Carrier.

In relevant part, Rule 49(a) states "...Unless satisfactory evidence of being unavoidably detained is provided, any employee who fails to report for duty at the

expiration of leave of absence will be considered as voluntarily resigned from service and such position will be declared vacant and bulletined unless an extension has been granted...”

The Organization argues that the Claimant failed to receive any of the Carrier notices requesting additional information because the notices were sent to the wrong address. The Board respectfully disagrees. The record indicates the Claimant signed for both the 8/31/17 and the 10/10/17 certified letters. Furthermore, evidence indicates that all certified letters sent to the Claimant requesting additional medical documentation to support an extension to his MLOA were sent to his address of record maintained by the Carrier. In the instant case, the Carrier provided multiple opportunities for the Claimant to provide medical documentation to justify an extension to his MLOA. The Claimant was aware that medical documentation would be required to extend his MLOA and the Claimant was adequately warned that failure to do so could result in self-executing termination. Given these facts, 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 11<sup>th</sup> day of August 2020.