

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 44917  
Docket No. SG-47137  
23-3-NRAB-00003-210703**

**The Third Division consisted of the regular members and in addition Referee Kathryn A. VanDagens when award was rendered.**

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

**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 R.D. Morse, for compensation for 40-hours a week at his respective straight-time rate of pay beginning January 12, through May 19, 2020; account Carrier violated the current Signalman’s Agreement, particularly Rule 5, and Public Law Board 6459, Award No. 133, when Carrier failed to comply with the Award and return the Claimant to work within 30 days of the effective date of the Award, resulting in a loss of earnings to the Claimant. Carrier’s File No. 1738950. General Chairman’s File No. S-5-36. BRS File Case No. 16421-UP. NMB Code No. 105.”**

**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.**

**This dispute arose when the Claimant was attempting to return to service to a position in the Carrier's Signal Department. The Claimant was reinstated to service following the decision of Public Law Board 6459, Award No. 133, signed on December 13, 2019. The Carrier contacted the Claimant regarding a fitness for duty physical to be completed within five days of receipt of the letter.**

**The Carrier scheduled the Claimant's physical for February 6, 2020, 52 days after its letter informing the Claimant of the required steps for his return to work.**

**In a letter dated June 1, 2020, the Organization filed a claim on behalf of the Claimant. The Carrier denied the claim in a letter dated July 28, 2020. Following discussion of this dispute in conference, the positions of the parties remained unchanged, and this dispute is now properly before the Board for adjudication.**

**The Organization contends that the Carrier has the right and responsibility to set proper and reasonable medical standards when employees return to service. However, the Organization contends that by invoking said restrictions, the Carrier must use due diligence to ensure that employees return to service with minimal loss.**

**The Organization contends that the Carrier violated the Agreement by failing to return the Claimant to service in a reasonable amount of time. The Organization contends that the record is devoid of any valid reason for the Carrier's delay. As such, the Carrier should compensate the Claimant for his lost time from January 12, 2020, until his return to service on May 19, 2020.**

**The Carrier contends that the claim is fatally flawed. The Carrier contends that the claim is untimely, as it was presented in writing more than 60 days from the date of occurrence on which the claim is based.**

**Additionally, the Carrier contends that the Board has no jurisdiction to decide this claim. The Carrier contends that the authority to interpret or enforce Award 133 of Public Law Board 6459 must lie with the Neutral referee who presided over that board, and not the Third Division of the National Railroad Adjustment Board.**

**With respect to the merits, the Carrier contends that the Organization presented no facts to support its claim. Unsubstantiated allegations must fail. The Carrier contends that the Organization has put forth no evidence to show that the Carrier purposely delayed the Claimant's reinstatement. The Carrier contends that it is entitled to conduct a thorough review of the Claimant's fitness for duty after a**

two-year absence from its service.

This Board finds that the threshold issue is dispositive of the matter. Section 153 of the Railway Labor Act, at paragraph (p) sets forth the procedure to follow when a party is charged with failing to comply with an award of a public law board:

If a carrier does not comply with an order of a division of Adjustment Board within the time limit in such order, the petitioner, or any person for whose benefit such order was made, may file in the District Court of the United States ... a petition setting forth briefly the causes for which he claims relief ....

This Board does not have authority to enforce awards of other boards. Accordingly, we must dismiss the claim for lack of jurisdiction.

**AWARD**

Claim dismissed.

**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 21<sup>st</sup> day of April 2023.