

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 45422
Docket No. SG-47849
25-3-NRAB-00003-230299**

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

**(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(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 A. Bennett to be returned to service and compensated for lost wages beginning March 25, 2022, and continuing until the Claimant is returned to service; account Carrier violated Rules 5, 52, and 65 of the Agreement when it failed to notify the Claimant in writing of the reasons for disqualification and failed to return him to service in a timely manner after being cleared by his physician on March 22, 2022. Carrier’s File No. 1776798, General Chairman’s File No. W-5-52-65-0149, BRS File Case No. 5993, NMB Code No. 307 - Contract Rules: Medical/FFD.”

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 record sufficiently shows that the Claimant self-reported a medical condition that resulted in the Carrier referring him for a fitness-for-duty examination. The Claimant also requested a medical leave of absence. The Carrier found the Claimant not fit for duty based on the reported condition and withheld him from service.

It is fundamental that fitness of an employee to perform duties of a job is the Carrier's right, subject only to a showing that the Carrier's decision was arbitrary. See First Division Award 28138. The record fails to show that the Carrier was arbitrary in its determination. Moreover, the Claimant's voluntarily going on a medical leave of absence is inconsistent with his assertion that the Carrier was arbitrary in its decision. If, as the Organization argues, Carrier personnel may have suggested to the Claimant that he take a medical leave of absence, such a suggestion does not change the result. The Claimant's action was voluntary.

Finally, the fact that the Claimant's physician cleared him to return to duty does not change the result. See First Division Award 28138, supra ("... the position urged by the Organization that effectively gives the Claimant's physician the ability to make fitness determinations which are binding on the Carrier results in the same forfeiture of that core managerial right").

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 13th day of February 2025.