

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 45441
Docket No. SG-47623
25-3-NRAB-00003-220950**

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

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

STATEMENT OF CLAIM:

“Claim on behalf of O. Rodriguez for lost wages between October 15, 2021, and December 7, 2021; account Carrier violated Rule 5 of the Agreement when it failed to return the Claimant to service in a reasonable amount of time after he was medically cleared to return to work on October 15, 2021, resulting in loss of work opportunities for the Claimant. Carrier’s File No. 1767471, General Chairman’s File No. S99-5-237, BRS File Case No. 5551, 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.

In the instant claim, the Organization alleges the Carrier violated the Agreement when it delayed the Claimant’s return to work after being released by his physician.

The record indicates that the Claimant was cleared to return to work by his personal physician on October 6, 2021, and corresponding medical documentation was

provided to the Carrier on October 15, 2021. The Carrier then requested additional medical documentation on November 23, 2021. The Claimant provided the additional documentation requested on November 29, 2021, and then was cleared by the Carrier to return to work on December 7, 2021.

The Organization argues a) the Carrier's less than diligent processing of paperwork was the reason for the Claimant's unreasonable delay in returning to work, b) the Claimant initially submitted requested medical documentation to the Carrier on October 15, 2021. It was not until November 23, 2021, well over a month since the original submission, that the Carrier requested additional documentation, and c) although the Carrier has the right and responsibility to set proper and reasonable medical standards, the Board has ruled that this right is not unfettered, and the Carrier is obligated to make medical determinations concerning return to work in a reasonable time period.

The Carrier argues a) the Carrier had valid reasons to request additional medical documentation from the Claimant because the original medical information submitted was incomplete. The last note of record in the provided medical documents was dated approximately one month prior to the Claimant's October 6, 2021 release date and did not provide any information regarding his post-op condition, b) because the documentation was incomplete, the Carrier requested additional documentation to confirm the Claimant's fitness for duty, c) the Claimant provided the additional documentation on November 29, 2021, and was then returned to service promptly on December 7, 2021, d) there has been no undue delay in the handling of the Claimant's return to work, e) the Carrier has the managerial right to assure that employees returning to work from medical leave are fit and ready to return to work in their assigned position, a right recognized by both arbitration boards and the courts, and f) the Claimant was never disqualified.

As the Board has said on many occasions, the Carrier has the right and responsibility to set reasonable medical standards, and to request and review medical documents to ensure fitness for duty. However, as noted in Third Division Awards 40481 and 40839, the Carrier has an obligation to perform its medical review and determination within a reasonable time period. What constitutes a reasonable time period regarding the Carrier's review of medical records is dependent upon the facts presented in each case.

Here, the Carrier received medical records from the Claimant on Friday, October 15, 2021. The Carrier then requested additional medical records on November 23, 2021, thirty-nine days after the Claimant had initially provided records. The Board

notes that there was no reasonable evidence provided in the record as to why it took the Carrier thirty-nine days to review and then request additional records. As such and based upon a review of the record in toto, the Organization sustained its burden and convinced the Board that the Carrier's delay in returning the Claimant to work was excessive and unreasonable.

Considering the Claimant initially provided the Carrier with medical records on a Friday (10/15/21), the Board finds that it would have been reasonable for the Carrier to review the initial medical records received and then request additional documentation from the Claimant within a five-day period. Here, upon request from the Carrier, the Claimant provided the additional documentation from his medical provider to the Carrier six days later. The Board finds that it would have been reasonable for the Carrier to then consider the additional documentation provided by the Claimant within a four-day period. As a result, the Board directs the Carrier to compensate the Claimant for all lost wages between October 29, 2021 and December 7, 2021.

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 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 3rd day of April 2025.