

NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION

Award No. 45522  
Docket No. SG-47998  
26-3-NRAB-00003-230537

The Third Division consisted of the regular members and in addition Referee Daniel F. Brent 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 Company. Claim on behalf of B.C. Gordon to be returned to service and to be compensated for lost wages from September 7, 2022 through November 9, 2022; account Carrier violated Rules 5 and 52 of the Agreement when it failed to notify the Claimant in writing of the reasons for the Claimant’s disqualification and failed to return him to service in a timely manner after being cleared by his Physician on September 7, 2022. Carrier’s File No. 1780605, General Chairman’s File No. S99-5, 52-367, BRS File Case No. 6214, 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 Carrier placed the Claimant, B.C. Gordon on off-duty status based on various medical conditions deemed by the Carrier's local management to compromise Claimant's ability to perform his safety sensitive duties as a Skilled Signalman.

Claimant's treating physician certified that the Claimant was fit to return to duty as of September 7, 2022. The Carrier did not permit Claimant to return to active duty until November 9, 2022. Consequently, the Organization submitted the instant grievance contending that the Carrier had violated Rules 5 and 52 of the Agreement by failing to notify the Claimant in writing setting forth the reasons for his disqualification period. According to the Organization, the Carrier further violated the Agreement by failing to return the Claimant to service in a timely manner after he was cleared by his treating physician on September 7, 2022, by failing to advise the Organization and the Claimant of the additional documentation or evaluation required to establish his fitness for duty as a Skilled Signalman, and by unjustifiably delaying his return to work until November 9, 2022.

As the Carrier correctly asserted in its written submission, the Carrier is entitled to establish and enforce workplace medical fitness for duty standards in order to fulfill the Carrier's duty to protect bargaining unit employees, other Carrier employees, and the general public by maintaining a safe work environment and by conducting its operations safely. The record established that the Carrier had a reasonable basis to conclude that Claimant's multiple medical conditions required further examination and certification by a medical professional to ensure that the Claimant could perform his duties without danger to himself or to others. Thus, requiring additional documentation from the Claimant and his treating physician beyond a short note declaring that Claimant was fit to resume the full scope of his Signalman duties was reasonable. However, when the Carrier or its representative, Health and Medical Services, denied the Claimant's request to return to work based on the September 7, 2022 certification of his treating physician, the Carrier was obligated to identify with specificity the type of documentation the Carrier deemed necessary to evaluate Claimant's current medical condition and fitness for duty.

The evidentiary record established that the Carrier failed promptly to convey this information to the Claimant, thus unnecessarily extending the interval before the Claimant was certified to return to work or formally notified that he could not return to work. The Carrier was required to notify the Organization both of the disqualification of the Claimant from performing his duties and of the inadequacy of the documents the Claimant submitted. Even assuming that the Carrier was not

required to notify the Organization when the Claimant was initially held out of service because, as the Carrier alleged, the Claimant was technically not disqualified from his position but instead was held out pending the receipt of appropriate medical documentation, the interval commencing ten days past the Claimant's initial submission of the medical note certifying the Claimant to return to work, and the ultimate date that the documents ultimately identified by the Carrier were submitted created an unnecessary delay in returning Claimant to active duty. The Claimant is entitled to compensation for a lost work opportunity during this extended interval.

The Carrier's Health and Medical Service may have "followed up" with the Claimant throughout evaluation process by informing Claimant that the documents the Carrier received were not sufficient to demonstrate that the Claimant could safely return to duty, but the Carrier repeatedly failed to communicate clearly and explicitly communicate to the Claimant the precise nature of the documentation he was supposed to provide, thus depriving the Claimant and his physician of reasonable notice of the Carrier's demands.

The Organization persuasively established by a preponderance of the evidence that the Carrier is obligated to advise the Claimant in writing of the specific medical circumstances and evaluative and documentary preconditions necessary for his return to work. There is no proof in the evidentiary record that the Carrier properly advised the Claimant of what documentation was deficient in a timely manner.

The cases cited by the Carrier established that the Carrier has the authority to determine the physical qualifications for each position and fairly to evaluate whether an employee is fit to perform such duties. However, in order properly to exercise this authority the Carrier must communicate what is required in order for the Claimant to satisfy the reasonable criteria promulgated by the Carrier.

There is no requirement to pay the Claimant for work he lost during any interval when he was demonstrably not fit to meet the Carrier's reasonable standards. He was, however, entitled to be compensated for the Carrier's negligent failure to specify the standards it had used to hold Claimant out of work for such a protracted interval and to communicate unambiguously the type of information that the Claimant was obligated to provide in order to return to work. The Carrier has not satisfied its burden to demonstrate more probably than not that it timely conveyed to the Claimant and to the Organization the basis of discounting the treating physician's return to work certification and explained to the Organization and to Claimant the deficiencies in the

submitted documentation and what was required to rectify any impediments to Claimant's resumption of his Skilled Signaller duties. The appropriate remedy is to pay Claimant for all lost work opportunity at the then-applicable contractual straight-time rate, plus any fund contributions, for all regularly scheduled hours the Grievant would otherwise have worked between September 17, 2022 and November 9, 2022 or the date Claimant actually resumed his duties, whichever is later.

Claim sustained in accordance with the Findings. The Carrier has not satisfied its burden to demonstrate more probably than not that it timely conveyed to the Claimant and to the Organization the basis of discounting the treating physician's return to work certification and explained to the Organization and to Claimant the deficiencies in the submitted documentation and what was required to rectify any impediments to Claimant's resumption of his Skilled Signaller duties. The appropriate remedy is to pay Claimant for all lost work opportunity at the then-applicable contractual straight-time rate, plus any fund contributions, for all regularly scheduled hours the Grievant would otherwise have worked between September 17, 2022 and November 9, 2022 or the date Claimant actually resumed his duties, whichever is later.

**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 27th day of January 2026.