

NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION

Award No. 45549  
Docket No. SG-48931  
26-3-NRAB-00003-240609

The Third Division consisted of the regular members and in addition Referee Rachel R. Yurek when award was rendered.

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

**STATEMENT OF CLAIM:**

“Claim on behalf of D. Stites for lost wages beginning September 24, 2023, and continuing until the Claimant is returned to his position; account Carrier violated the Agreement, particularly Rules 5, 6, and 65, 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 September 23, 2023, resulting in loss of work opportunities for the Claimant. Carrier’s File No. 1797843, General Chairman’s File No. W-5-6-202, BRS File Case No. 6717, 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.

At the time of this dispute, Claimant Danny Stites (“Claimant”) was assigned as a Skilled Signalman. On September 23, 2023, Claimant experienced lightheadedness. He sought treatment at an urgent care center and an emergency room. The ER did not admit him and he was released that same day with no restrictions. When Claimant

returned to work on August 24, 2023, he was removed from service pending an evaluation of his fitness for duty. It is unclear from the record when Claimant was ultimately returned to service, but it was after November 30, 2023 – the date of the last correspondence from Carrier’s Health and Medical Services regarding this claim.

On November 22, 2023, the Organization filed a claim on behalf of Claimant alleging that Carrier violated Rules 5 and 6 of the controlling agreement when it withheld Claimant from service, denying him a 40-hour/5-day work week.

On December 12, 2023, Carrier responded and denied that Claimant was withheld in violation of Rules 5 or 6. Carrier contends that Claimant reported a serious medical condition that required further evaluation. Carrier further contends that Claimant continually failed to supply the requested medical records, thus delaying his own return.

The parties’ Agreement provides, in part:

**“RULE 5 – 40-HOUR WORK WEEK**

**GENERAL**

There is established for all employees, subject to the exceptions contained in this agreement, a work week of 40 hours, consisting of five days of eight hours each, with two consecutive days off in each seven; the work weeks may be staggered in accordance with the Carrier’s operational requirements, so far as practicable the days off will be Saturday and Sunday.

**RULE 6 – ESTABLISHED HOURS AND DAYS**

The regularly established daily working hours will not be reduced below eight (8) per day, nor will the regularly established number of working days be reduced below five (5) per week, except in weeks in which positions are established or abolished, unless agreed to in writing by a majority of the employees affected through their General Chairman. The number of days may be reduced in a week in which holidays specified in Rule 15 occur, by the number of such holidays.

**RULE 65 - LOSS OF EARNINGS**

**An employee covered by this agreement who suffers loss of earnings because of violation or misapplication of any portion of this agreement will be reimbursed for such loss.”**

**A Carrier’s right to withhold employees to assess their fitness for duty is well-established. As Neutral Martin Malin held in Public Law Board 6302, Award 8:**

**“The Organization contends that Carrier never established that Claimant was medically unable to perform his duties. However, it is well-established that Carrier has the right to withhold employees from service for medical reasons. Carrier is charged with the responsibility for the safety of the employees and its decisions to withhold employees for medical reasons should not be second guessed by a reviewing tribunal. The Board should overrule such a decision only where it is shown to have been made in bad faith or to have been arbitrary or capricious.”**

**The Organization has not met its burden of proof to show that Rules 5 or 6 are violated when Carrier exercises its right to withhold an employee for medical reasons. Further, Carrier evidence shows that its Health and Medical Services repeatedly had to request medical records because Claimant kept sending only the initial ER letter. Therefore, any delay in evaluating his fitness for duty was attributable to Claimant’s own actions.**

**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 27th day of January 2026.**