

PUBLIC LAW BOARD NO. 1760

Award No. 145

Case No. 145

File No. MW-DECR-92-40

Parties Brotherhood of Maintenance of Way Employees  
to and  
Dispute Norfolk and Western Railway Company  
(former Wabash)

Statement  
of Claim: W. R. Burg-Resignation- Request for medical leave.

Findings: The Board has jurisdiction by reason of the parties  
Agreement establishing this Board therefor.

Claimant W. R. Burg, on May 22, 1992, wrote a seven page letter to Assistant Division Engineer R. W. Wright. Therein the Claimant recounted his railroad experience and advised of his perceptions about railroad working life that resulted in his alleged stressful status. The Claimant closed the letter by advising that he could not return to the railroad under the present conditions. The Claimant advised that he would be in contact with the Claims Department about the two outstanding injuries that he now had pending. Assistant Division Engineer Wright concluded therefrom that the letter was one of a resignation and treated it as such. On June 11, 1992 Wright so advised the Claimant that his resignation from service was accepted and his record closed.

Almost two months later on August 7, the Union filed a claim that Claimant be placed on medical leave and be allowed to return to his former position upon completion of his treatment. The claim was denied.

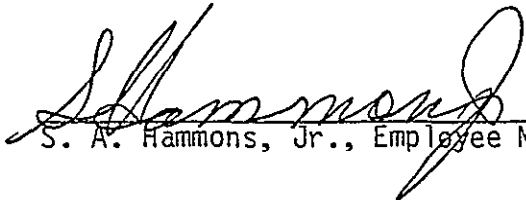
The Union cited Rule 21 - Personal Injuries reading:

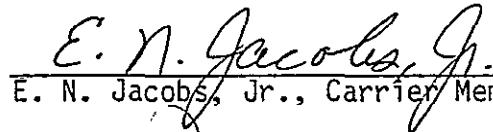
"Employees injured while at work will be required to make a detailed written report of the circumstances of the accident just as soon as they are able to do so after receiving medical attention. Proper medical attention shall be given at the earliest possible moment and employees will be permitted to return to work just as soon as they are able to do so, without signing a release pending final settlement of the case."

This was in support of their position that Claimant's letter should have been treated as a request for medical leave.

Approximately one year and one half has elapsed since the letter was written. However, no medical information was offered to the Board to warrant the Board to formulate a conclusion that the Assistant Division Engineer had improperly construed the May 22, 1992 letter. Absent a specific request for a medical leave, the letter was fairly construed as being one of resignation.

Award: Claim denied.

  
S. A. Hammons, Jr., Employee Member

  
E. N. Jacobs, Jr., Carrier Member

  
Arthur T. Van Wart, Chairman  
and Neutral Member

Issued December 30, 1993.