

PUBLIC LAW BOARD NO. 1760

Award No. 79

Case No. 79

Docket No. MW-FTW-85-45

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

Statement

of Claim: Claim on behalf of Sam Powers for an equal number of hours worked by his assigned gang at the applicable rate for the period November 4 through December 6, 1985.

Findings: The Board has jurisdiction of this case.

Claimant Laborer, on August 7, 1985, was injured in an automobile accident during his assigned meal period. As a result, he was hospitalized. Claimant remained off duty from August 7 until December 7, 1985.

Claimant came to the Division Engineer's office on November 1, 1985 with a certificate from his doctor stating that he was able to return to work on November 4, 1985.

Carrier's Medical Director requested a complete report from Claimant's doctor for a return to work physical examination and a physical examination was set up for November 26, 1985. Carrier's doctor received the information from Claimant's physician on November 22, 1985. As a result of the physical examination taken on November 26, 1985, he was qualified for duty on December 5, 1985.

The rules cited by the Organization when applied to the facts of this case warrant a denial.

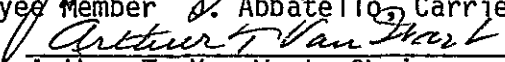
There is no agreement requirement that the Carrier simply return a man to work on the basis of his personal doctor's statement. Said statement, dated August 13, 1985, asserted therein that Claimant was under the doctor's care and would be off only 30 days. Said prognosis apparently was in error as he was off at least over 4 months. Agreement Rule 50(b) claim will be denied. Claimant was returned within seven (7) working days of November 22, 1985 when Claimant's medical information was made available.

Claim is without merit and therefore is denied.

Award: Claim denied.


Sol Hammons, Jr., Employee Member


J. Abbate, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member

Issued June 9, 1988.