

BEFORE PUBLIC LAW BOARD NO. 1837

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES  
AND  
NORFOLK & WESTERN RAILWAY COMPANY

Case No. 72

STATEMENT OF CLAIM: Claim of the System Committee of the  
Brotherhood

1. The Carrier violated the Agreement when it improperly withheld Trackman J. L. Taylor from service after he had been physically qualified to return to service on August 28, 1984.
2. Claimant J. L. Taylor shall be reinstated with seniority and all other rights unimpaired and compensated for all wage loss suffered commencing August 24, 1984.

FINDINGS:

Claimant J. L. Taylor was employed by the Carrier as a trackman.

On October 26, 1984, the Organization filed a claim on Claimant's behalf alleging that the Carrier violated the provisions of the parties' effective working agreement dated February 1, 1951, when the Carrier failed and refused to permit the Claimant to return to service on August 28, 1984, and deprived him of employment from the time he was qualified to return to service. On August 27, 1984, the Claimant was given a physical examination and was qualified to return to service on August 28, 1984. The Carrier alleges that the Claimant was being held from service due to his distant vision, which had to be corrected to 20/40 or better in both eyes. After a September 11, 1984, examination, the Carrier noted that the Claimant had not

corrected his vision sufficiently to be returned to service. The Carrier withheld the Claimant from service pending the results of an ophthalmologist's report. The report was dated August 24, 1989, and on October 16, 1989, the Carrier notified the Claimant that he did not meet the requirements and was disqualified from duty, but not terminated, with the opportunity to further correct his vision. The Organization appealed without a resolution, and this matter came before this Board.

This Board has reviewed the record in this case, and we find that there is sufficient evidence in the record that the Claimant was properly disqualified because his vision did not meet the Company's minimal visual standards. The Claimant's vision in his right eye was only 20/60, and the minimal standard of the Carrier is 20/40.

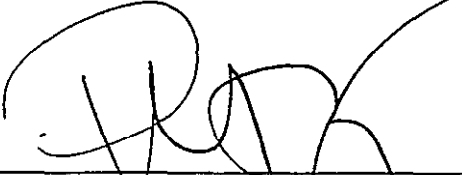
There is no question that the Carrier has the responsibility of maintaining a safe and efficient operation and also has the right to set reasonable physical standards for its employees. Along with the right, the Carrier has the right to withhold from service employees who do not meet their physical standards. This Board can find nothing unreasonable or arbitrary about the 20/40 vision requirement.


There is nothing in the record to show that since the Claimant was disqualified for his vision problems, that his vision has improved. Therefore, this Board cannot find any violation of the agreement, and the claim must be denied.

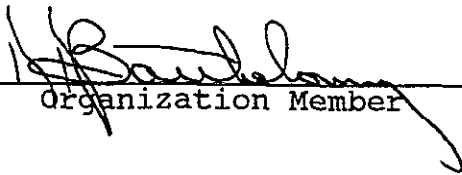
AWARD:

AWO 72-1837

Claim denied.

  
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PETER R. MEYERS  
Neutral Member

  
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Carrier Member

  
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Organization Member

Dated: April 29, 1991