

**PUBLIC LAW BOARD NO. 2960**

AWARD NO. 177  
CASE NO. 424

**PARTIES TO DISPUTE:**

Brotherhood of Maintenance of Way Employees

and

Chicago and North Western Transportation Company

**STATEMENT OF CLAIM:**

"Claim of the System Committee of the Brotherhood that:

- (1) The Carrier violated the Agreement when it improperly withheld Machine Operator D. L. King from service from April 1, 1991 (Organization File 4LF-2435T; Carrier File 81-91-109).
- (2) Claimant D. L. King shall now be allowed thirty-two (32) hours of pay at the applicable rate of pay for a 903 machine operator."

**OPINION OF THE BOARD:**

The issue in this case is similar to that faced by the Board in Docket 436. The key date for purposes of tolling the time for the Carrier's medical review in this case is March 25. The Carrier should have completed its review no later than April 4. The Claimant was returned to service on April 5. Thus, the delay from the date the Grievant was awarded the job was reasonable. Moreover, the delay in awarding the position was not unreasonable. Nor does the evidence in any other way suggest the Carrier was delaying the award so as to avoid the ten-day rule of thumb for medical approvals.

PLB 2960

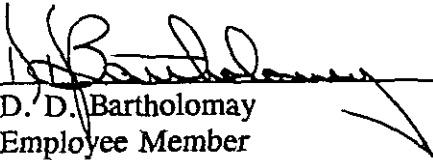
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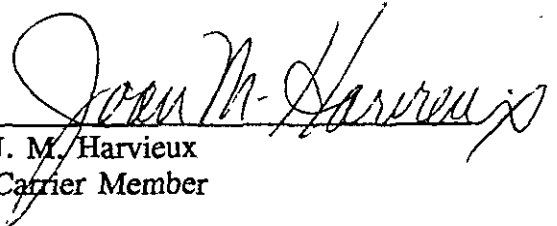
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**AWARD:**

The grievance is denied.

  
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Gil Vernon, Chairman

  
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D. D. Bartholomay  
Employee Member

  
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J. M. Harvieux  
Carrier Member

Dated: 11/9/93