

PUBLIC LAW BOARD NO. 4950

NEW JERSEY TRANSIT RAIL OPERATIONS, INC.	:	
"Carrier"	:	Case No. 98
	:	
vs.	:	
	:	
BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES	:	Award No. 91
"Organization"	:	
	:	

OPINION OF THE BOARD

On March 31, 1994, the Organization submitted the instant claim on behalf of Claimant, K. Alfred, for all back wages from Wednesday, March 9, 1994 until Thursday, March 24, 1994. According to the claim, Claimant was cleared to work by his attending physician without limitation as of March 9, 1994, and when Claimant attempted to return to service on March 9 Carrier barred him from doing so, with no explanation.

By letter dated April 26, 1994, Carrier denied that claim. Carrier subsequently denied the claim through all levels of appeal. According to Carrier, on March 3 Claimant went to Carrier's Medical Department for a return to work physical and the physician in medical services sent Claimant to a specialist for further testing, and when the results of the testing were received on March 24, 1994, medical services declared Claimant medically qualified to work the next day. Carrier asserts that it took this action consistent with its rights under the Rules. Carrier also maintains that the claim is procedurally defective

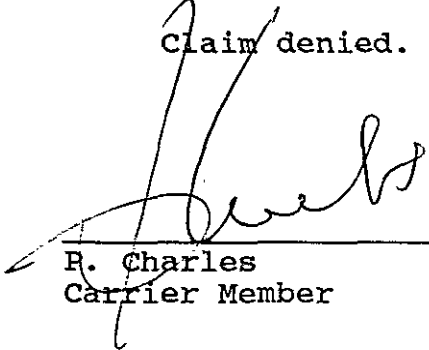
and that the Board is without authority to grant the remedy sought.

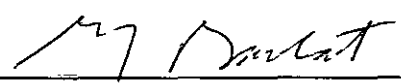
The Board has determined that the claim must be denied.


Records indicate that Claimant was returning to work from an extended medical leave of absence due to injuries diagnosed as intervertebral disc herniation. Given the reason for Claimant's absence, Carrier acted within its rights in having him examined by a specialist rather than accepting without question the assertion of Claimant or his doctor concerning Claimant's fitness to return to work. Moreover, the record does not reveal that Carrier acted arbitrarily or in any fashion unreasonably to deprive Claimant of wages to which he was entitled.

AWARD

Claim denied.



R. Charles
Carrier Member

G. Barbati
Organization Member

S. E. Buchheit
Neutral Member