

PUBLIC LAW BOARD NO. 1582

PARTIES) THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY
TO)
DISPUTE) BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

STATEMENT OF CLAIM: Claim in behalf of New Mexico Division Trackman for "Compensation for wage loss beginning November 27, 1973 continuing forward until restored to service."

FINDINGS: This Public Law Board No. 1582 finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, and that this Board has jurisdiction.

In this dispute the claimant was instructed by his supervisor to report to the Lovelace Clinic in Albuquerque, New Mexico for a physical examination to determine his fitness to continue working as a trackman on the New Mexico Division. As a result of that examination the claimant was placed on sick leave until such time as his physical condition improved.

On March 7, 1973 the claimant reported to his personal physician and on April 16, 1973 was admitted to the hospital where he received physical therapy and was treated for the removal of a small spermtocoele and a hydrocele. On May 2, 1973 the doctor in charge of the claimant's case felt he was sufficiently improved to return to duty, but the claimant chose to continue medical treatment until he believed he was physically able to perform his duties.

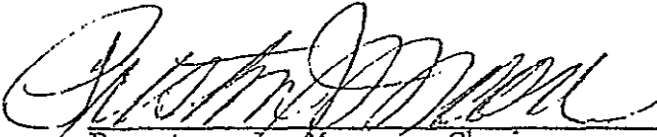
The claimant was continued on sick leave and did not attempt to return to duty until November 27, 1973. On that date he was advised by his supervisor that he would not be allowed to return to duty until he secured a letter from the doctor in charge of his case indicating the nature of his illness, the treatment and the medication given, as well as a report on his present condition. On January 11, 1974 claim was presented for the claimant claiming he was wrongfully withheld from service.

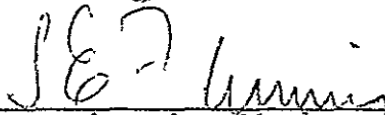
The Carrier contends that the claimant had a great deal of trouble keeping his balance, even in walking. For that reason the claimant was instructed to report to the local medical examiner. The Carrier notes that they requested an authorization for release of medical information to be furnished by Dr. Morgan but could not obtain the release. The Carrier received a letter dated March 21, 1974 from Dr. Morgan which stated that the claimant was now safe to return to work.

The Carrier concluded that another clinical evaluation would be necessary, and claimant was continued on leave of absence and instructed to report to the Lovelace Clinic in Albuquerque for a medical re-examination the week of April 8, 1974. The Clinic furnished the Carrier a letter dated April 25, 1974 stating that the claimant could be returned to service, and he did so on May 9, 1974.

The Board has examined all of the evidence and testimony of record, and it appears that the delay herein could have been very easily resolved if the claimant had simply observed the requirements of the Carrier and gone to his doctor's office and signed a form for release of medical information to the Carrier. In other words, the delay in being returned to service was the claimant's own fault and not the fault of the Carrier. Part of the delay, of course, was caused by the Carrier, but this was done in accordance with the rules to obtain information regarding the physical condition of the claimant. On the foregoing basis the Board finds no support for the claim.

AWARD: Claim denied.


Preston J. Moore, Chairman


Organization Member


Carrier Member

January 2, 1974