

Award No. 5
Case No. 9

Public Law Board No. 2630

PARTIES
TO
DISPUTE:

Brotherhood of Maintenance of Way Employes
and
Baltimore and Ohio Railroad Company

STATEMENT
OF
CLAIM:

Claim made by George A. King for the Production Tamperers rate of pay for April 18-22 and 25-29; May 2-6, 9-13, 16-20, 23-27, 30 and 31 and June 1-3, 1977 account Donald Harris, a junior employe, operated the Production Tamper while claimant was held out of service.

FINDINGS:

Claimant, on furlough since December 7, 1976, bid for and was awarded on April 2, 1977 a Production Tamper position. He was to begin work in that position on April 18, 1977.

However, since he had sustained three personal injuries and complained of vision and head trouble while employed in 1976, Carrier required him to take a special physical examin-

ation before returning to work. There is no question but that Carrier had that right under the circumstances.

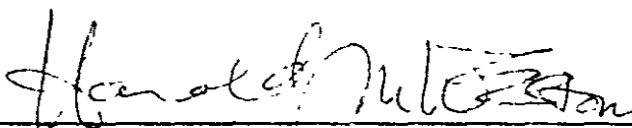
Claimant took the examination on April 25, 1977, but the results were not available until June. He was permitted to return to work on June 6, 1977.

In weighing the respective interests of the parties, we are not satisfied that Carrier acted with reasonable dispatch. While we are mindful of its Medical Department's busy schedule, it is incumbent upon Carrier to take all reasonable measures to avoid unnecessary financial loss to the employee who is observing its requirements.

No persuasive consideration has been advanced for a delay of over 15 days in this case. The claim accordingly will be sustained for May 6, 1977 and all subsequent dates set forth in the above Statement of Claim.

AWARD: Claim sustained to the extent indicated in Findings.

Adopted at Baltimore, Maryland, *October 27*, 1980.



Harold M. Weston, Chairman


Carrier Member


Employee Member