

Public Law Board No. 2778

PARTIES
TO
DISPUTE:

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

STATEMENT
OF
CLAIM:

Claim in behalf of Alfred D. Friend, Jr. for wages lost, including overtime.

FINDINGS:

After reporting off sick for two days, claimant attempted to return to duty on August 1, 1978. He was notified at that time that he would not be permitted to resume his duties until he presented a physician's statement that he was physically fit to return to work.

It was not unreasonable for Carrier to insist on such a statement. During the first seven months of 1978, claimant had been absent on numerous occasions and worked only four full 40-hour weeks.

The Medical Department set up an appointment for claimant on August 17, 1978 at Baltimore, a 376-mile round-trip from claimant's home and headquarters. He was not notified of the appointment until August 16. It is understandable that he did not show up for the examination.

Claimant eventually, on September 11, 1978, received another appointment, this time in Cumberland, Maryland, 41 miles from claimant's residence. He returned to duty on the following day with a physician's statement and was permitted to work.

While Carrier's handling of the situation was not in the main improper in view of claimant's own failure to produce a doctor's statement, its scheduling of appointments does lend weight to Petitioner's complaint of unfair treatment. It manifestly showed a cavalier disregard of claimant's legitimate interests to set up an examination so far from his residence and headquarters on one day's notice. Such procedures could well bewilder the most reasonable employe, even if he were aware that he would be reimbursed for the expense involved in making the 376-mile trip.

Upon considering the record in its entirety, it is our conclusion that the delay in arranging for an examination date that claimant could be expected to meet is excessive and that claimant should be allowed ten days pay. Where an employe has been off sick and Carrier considers a physical examination necessary, it should make arrangements to hold it with reasonable dispatch and at a reasonable location.

AWARD: Claim sustained to the extent of ten days excluding overtime. To be effective within 30 days.

Adopted at Baltimore, Maryland, February 2, 1983.


Harold M. Weston, Chairman


Carrier Member


Employee Member