

PUBLIC LAW BOARD NO. 7633

Brotherhood of Maintenance
of Way Employees Division - IBT

and

Union Pacific Railroad Company
(Former Missouri Pacific Railroad Company)

Case No. 165
Award No. 165

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood that:

1. The Agreement was violated when the Carrier incorrectly removed and withheld Mr. P. Hamm from service for a fit for duty exam beginning August 7, 2019 and October 2, 2019 and continuing (System File UP688BT19/1729315 MPR).
2. As a consequence of the violation referred to in Part 1 above:

‘... the claimant shall be paid two hundred forty (240) hours straight time and continuing and three thousand six hundred fourteen (3614.10) dollars per diem.’”

FINDINGS:

Public Law Board No. 7633, upon the whole record and all the evidence, finds the parties involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act, as amended; this Board has jurisdiction of the dispute herein; the parties were given due notice of hearing before this Board and they participated therein.

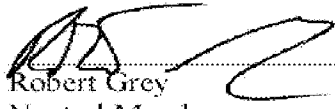
The dispute was not resolved during a settlement conference and progressed to arbitration. This matter is now before the Board for final and binding resolution. The Board has carefully reviewed the entire record in this case, including the arguments and awards provided in support of the parties’ respective positions, whether or not specifically addressed herein.

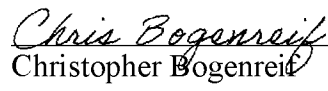
It is axiomatic that Carriers have a duty of care for the safety of employees, their co-workers, and the general public. It is undisputed that the Carrier can set reasonable medical standards. The record demonstrates that the Carrier had legitimate unrefuted concerns about Claimant’s ability to

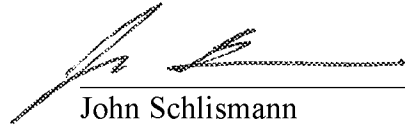
safely perform his job; requested reasonable medical testing; and acted promptly and reasonably upon receipt of medical information. The record does not establish that the Carrier acted arbitrarily, capriciously, or unreasonably. Therefore, the claim must be denied.

AWARD

Claim denied.


Robert Grey
Neutral Member


Christopher Bogenreif
Carrier Member


John Schlismann
Organization Member

May 18, 2022

Dated