

PUBLIC LAW BOARD NO. 7660

Brotherhood of Maintenance
of Way Employees Division - IBT

and

Union Pacific Railroad

Case No: 133
Award No: 133

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

1. The Agreement was violated when the Carrier continued to withhold Mr. J. Stanfield from service after providing medical documentation on July 7, 2017 which cleared him for service (System File G-1727C-301/1692873 CNW).
2. As a consequence of the violation referred to in Part 1 above, Claimant J. Stanfield shall be compensated for all the days and hours worked both straight time and overtime by Gang 3413 between July 7, 2017 and September 6, 2017 and Gang 2982 going forward until such time Claimant J. Stanfield is returned to service at the applicable rates of pay.”

FINDINGS:

Upon the whole record, after hearing, this Board finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended, and that this Board is duly constituted under Public Law 89-456 and has jurisdiction of the parties and the subject matter.

In December 2016, the Claimant was placed on a Medical Leave of Absence (MLOA) via the Carrier’s Employee Assistance Program (EAP). At that time, the Claimant was observed acting in an erratic manner. In April 2014, the Carrier’s Health and Medical Services placed a permanent sudden incapacitation restriction on the Claimant, which prevented him from working with or near moving equipment, such as trains, vehicles, forklifts, machinery, etc. The Claimant remained on a MLOA and was advised in September 2017 that he was given a General Medical Disqualification from performing any job with the Carrier due to his chronic and severe health condition.

The Organization argues the Carrier improperly withheld the Claimant from service and had no valid grounds for doing so.

The Carrier argues a) the Carrier has a right and obligation to ensure employees are safe to perform work by enforcing reasonable work restrictions, b) the Organization failed to satisfy their burden proving a violation of the Agreement, and c) the Claimant was not disciplined as defined within the meaning of the Agreement.

Based upon a thorough review of the record, the Board finds the Organization failed to meet its burden and convince the Board the Carrier violated the Agreement. The Board does not find it necessary to reiterate the specific medical findings contained in the submissions. Suffice it to say, the medical records are indicative of multiple, serious, and on-going health issues for the Claimant. These health issues pose a significant and permanent risk to not only the Claimant, but to others as well. The permanent restrictions were placed on the Claimant for his own safety, the safety of his co-workers, and the safety of the general public. In the instant case, the Carrier acted reasonably and responsibly in determining the proper course of action. The Carrier is charged with ensuring the safety of its workforce, and its actions here were not arbitrary, but rather appropriate and necessary. The claim is therefore denied.

Although the Board may not have repeated every item of documentary evidence nor all the arguments presented in the record, we have considered all the relevant evidence and arguments presented in rendering this Award.

AWARD:

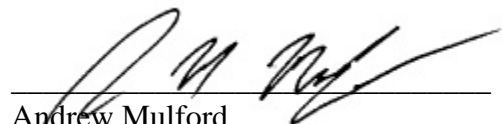
The claim is denied.



Paul Betts
Neutral Member
Dated: 08/01/2019



Chris Bogenreif
Carrier Member
Dated: 08/01/2019



Andrew Mulford
Labor Member
Dated: 08/01/2019