

PUBLIC LAW BOARD NO. 7660

**BROTHERHOOD OF MAINTENANCE OF WAY
EMPLOYEES DIVISION - IBT**

and

**UNION PACIFIC RAILROAD COMPANY
[Former Southern Pacific Transportation Company
(Western Lines)]**

**Case No: 94
Award No: 94**

STATEMENT OF CLAIM:

"Claim of the System Committee of the Brotherhood that:

1. The Agreement was violated when the Carrier continued to medically withhold Mr. D. Bullock from service beginning on July 27, 2016 and continuing (System File B-1632S-201/1670650 SPW).
2. As a consequence of the violation referred to in Part (1) above, Claimant D. Bullock ' ... must be compensated for **all man/hours of lost work, vacation credited for all time lost, loss of credit for railroad retirement months of service, and compensation for any loss of benefits** made at the applicable rates of pay for the position last held.(Emphasis in original) [Employees' Exhibit 'A-1]

FINDINGS:

This Board derives its authority from the provisions of the Railway Labor Act, as amended, together with the terms and conditions of the Agreement by and between the Brotherhood of Maintenance Employees Division – IBT (hereinafter referred to as the “Organization”) and the Union Pacific Railroad Company (hereinafter referred to as the “Carrier”). Upon the whole record, a hearing, and all evidence as developed on the property, the Board finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended; that this Board has jurisdiction over the dispute involved herein; and that the parties were given due notice of the hearing thereon. The Claimant was ably represented by the Organization.

The Carrier prevented the Claimant, Darryl Bullock, from returning to service after a medical disqualification until he completed a vision field test. The Organization claims that

the Carrier had no medical justification to withhold the Claimant from service.

The Organization filed its claim on September 15, 2016 stating that the Claimant was improperly prohibited from returning to work. The record indicates that the Carrier denied the subsequent appeals by the Organization and rendered its final written decision on January 6, 2017. The Organization rejected the Carrier's decision and moved to have the matter adjudicated before this Board.


The Board has carefully considered the record before us and find that there are no procedural errors that nullify the need to review the merits of this dispute. With regard to the merits of the claim, we find that the Organization has not met its burden of proof that the Carrier violated the Agreement when it held the Claimant out of service pending the results of the vision field test. The record supports the conclusion that the Carrier had sufficient cause to withhold the Claimant from service. The determination by the Carrier's medical department, based on the medical documentation in the record and the applicable federal regulations, provided the Carrier with a reasonable basis to keep the Claimant from service. The Organization has not provided evidence that a provision of the Agreement was violated.

Despite the Organization's strenuous argument to the contrary, the Board finds that the Carrier was not arbitrary or unreasonable in its decision to keep the Claimant from returning to his position. It is well established that the Carrier has the authority to decide the physical qualifications of its employees and to disqualify those who it deems cannot meet its medical standards. The Board here is not empowered to substitute its judgment for that of the Carrier regarding the application of its medical standards where it is rationally based and reasonable. The Board must find that the Carrier acted arbitrarily, unreasonable, or in a discriminatory manner before it can set aside its decision requiring the Claimant to undergo vision testing. We find no such evidence in the record.

In summary, we have reviewed and carefully weighed all the arguments and evidence in the record and have found that it is not necessary to address each facet in these Findings. We find that the Organization has not provided evidence that the Carrier violated the Agreement.

AWARD

Claim denied.



Michael Capone
Neutral Member

Dated: January 17, 2019



Alyssa K. Borden
Carrier Member

Dated: 01/17/19



Andrew M. Mulford
Labor Member

Dated: 01/17/19