

PUBLIC LAW BOARD NO. 7104

AWARD NO. 41

CASE NO. 41

PARTIES TO
THE DISPUTE:

Brotherhood of Maintenance of Way Employees
Division - IBT Rail Conference

vs.

CSX Transportation, Inc.

ARBITRATOR: Gerald E. Wallin

DECISION: Claim denied

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

1. The undue delay in returning B&B Mechanic Gary Hicks to duty following his medical release on March 24, 2008 is unjust, unwarranted and in violation of the Agreement (System File I62722508/2008-020190).
2. As a consequence of the violation in Part 1 above, Mr. Hicks shall be compensated for forty (40) hours straight time and ten and one-half (10.5) hours overtime, plus any expenses and vacation qualifying time, for time extended on the dates of March 24, 25, 26 and 27, 2008, at his respective rates of pay."

FINDINGS OF THE BOARD:

The Board, upon the whole record and on the evidence, finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended; that this Board is duly constituted by agreement of the parties; that the Board has jurisdiction over the dispute, and that the parties were given due notice of the hearing.

As suggested by the Statement of Claim, claimant was not allowed to return to work immediately upon presenting a release note dated March 24, 2008 from his doctor. The note was merely a fill-in-the-blank form approximately 4-inches by 5-inches that provided essentially no meaningful information about claimant's condition or treatment. The Carrier found the note to be insufficient and required more complete information, which it did not receive it until March 27 at 3:42 p.m. Claimant was returned to duty on March 31st, which was the next available work day.

Our review of the claim shows it to suffer in two respects. First, among other gaps, the initial


doctor's note was insufficient to show that the doctor had an adequate understanding of the nature of the duties that claimant would be required to perform. The Carrier, therefore, was entitled to obtain further information to satisfy itself that claimant would not jeopardize himself or others on the job. Claimant was immediately returned to duty at the next working opportunity after receipt of the information the Carrier was entitled to be provided. Second, prior awards of this Board have found that up to a one-week delay to act upon complete information is not unreasonable. See Third Division Award 37578. Claimant was returned to duty within this time frame as well.

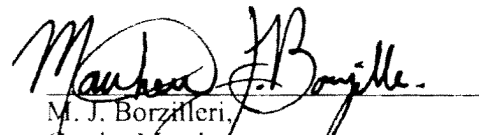
Given the foregoing discussion, we do not find that a violation of the Agreement has been proven as alleged in the claim.

AWARD:

The Claim is denied.


Gerald E. Wallin, Esq., Chairman


F. W. Kreke,
Organization Member


M. J. Borzilleri,
Carrier Member

Date: May 28, 2010