

SPECIAL BOARD OF ADJUSTMENT NO. 355

Parties: THE ORDER OF RAILROAD TELEGRAPHERS
THE BALTIMORE AND OHIO RAILROAD COMPANY

AWARD NO. 92
CASE NO. 8
O.R.T. 2464

AWARD IN DOCKET NO. 92

STATEMENT
OF CLAIM:

1. Carrier violated the Agreement between the parties when it refused to permit James R. Cockrell to resume duty on his regular assignment, third shift operator position, D. Tower, on May 14, 1956 when he reported ready to resume duty on said position.
2. Carrier shall be required to pay James R. Cockrell for all time lost as a result of his having been held out of service since May 14, 1956.

FINDINGS:

We will deny part 1 of the claim because Carrier's action in withholding claimant from his regular assignment on May 14, 1956 was not a violation of the agreement; nor was it an arbitrary use of its rights to determine the physical fitness of its employees in the light of the medical evidence in its possession at that time.

We likewise do not find that the Carrier, in the light of the medical record here present, acted arbitrarily in returning him to a position where he would be working in the presence of other employees, rather than working his regular assignment at a one-man tower. He bid and secured such position August 1, 1956.

A W A R D

Claim denied.

/s/ Edward A. Lynch
Edward A. Lynch
Chairman

/s/ B. N. Kinkead
B. N. Kinkead
Employee Member

/s/ T. S. Woods
T. S. Woods
Carrier Member

Dated at Baltimore, Maryland,
this 20th day of February, 1962.