

SPECIAL BOARD OF ADJUSTMENT NO. 541
BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
and
ERIE LACKAWANNA RAILWAY COMPANY

STATEMENT OF CLAIM:

1. The Carrier violated the effective Agreement, specifically the "Understanding on Physical Re-examination" agreed to July 24, 1948, when it refused as of September 22, 1966, to participate in arranging for a neutral physician to examine the physical condition of Trackman R. M. Buonavolanta.
2. The Carrier be now ordered to arrange promptly with the Claimant's physician for a physical examination by a neutral physician.
3. The Carrier be required to apply the provisions of the "Understanding on Physical Re-examinations" in accordance with the result of this examination referred to in Part 2.

FINDINGS:

Claimant, a trackman who had voluntarily applied for disability annuity under the Railroad Retirement Act because of a physical ailment, subsequently requested reinstatement to Carrier's service. His request was supported by the examination report and statement of his personal physician, Dr. W. H. Charlebois, an orthopedic surgeon who expressed the opinion that Claimant could return to his former work. However, after having Claimant re-examined, Carrier's Chief Surgeon reported that Claimant was only qualified to perform light duties and not the work of a trackman.

Petitioner's demand that a neutral physician be called upon to examine Claimant to help resolve the impasse was denied on the ground that no dispute exists between the Chief Surgeon and Dr. Charlebois regarding Claimant's physical condition and that Carrier's physicians were better qualified to determine the physical requirements of trackmen's work.

Under the specific facts of this case, the "Understanding on Physical Re-examinations" agreed to by the parties requires that Carrier's Chief Surgeon and Claimant's personal physician arrange for a properly qualified neutral physician to examine Claimant. The awards cited by Carrier do not require a contrary conclusion.

AWARD: Claim sustained.

Adopted at New York, N.Y., August 13, 1969.

/s/ Harold M. Weston
HAROLD M. WESTON, NEUTRAL

/s/ A. J. Cunningham
ORGANIZATION MEMBER

/s/ R. A. Carroll
CARRIER MEMBER