

**NATIONAL MEDIATION BOARD
SPECIAL BOARD OF ADJUSTMENT NO. 1048**

JOHN C. FLETCHER, CHAIRMAN & NEUTRAL MEMBER
E. N. JACOBS, JR., CARRIER MEMBER
RICHARD A. LAU, ORGANIZATION MEMBER

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

and

NORFOLK WESTERN RAILWAY COMPANY

Award No. 76
Case No. 76

*Date of Hearing - August 1, 1997
Date of Award - January 26, 1998*

Statement of Claim:

1. The Carrier violated the Agreement when it improperly withheld Trackman P. J. Kilcoyne from service after been released for duty by his personal physician on November 17, 1995, and Carrier's physician on December 15, 1995, but was not allowed to perform service until January 15, 1996. (Carrier's File MW-FTW-95-81-229)
2. As a consequence of the aforesaid violation, Trackman P. J. Kilcoyne shall be allowed twenty-one (21) days pay at the Trackman's rate of pay.

FINDINGS:

Special Board of Adjustment No. 1048, upon the whole record and all of the evidence, finds and holds that the Employee(s) and the Carrier are employee and carrier within the meaning of the Railway Labor Act, as amended; and, that the Board has jurisdiction over the dispute(s) herein; and, that the parties to the dispute(s) were given due notice of the hearing thereon and did participate therein.

Claimant marked off sick from his job in July 1993. On November 20, 1995 he presented his Foreman with a release to return to duty from his personal physician. Claimant was not allowed to return to work because of his extended absence. Instead he was required to present himself to a Carrier medical officer for examination and release for duty. That examination was delayed until Claimant's personal physician provided certain medical records to Carrier's doctor. Further delay occurred in additional required examinations. Finally, Claimant was approved as fit for duty and returned to work on January 15, 1996. The Organization is seeking payment of 21 lost work-days, contending that the delay in returning Claimant to duty was inordinate.

After examination of the sequence of events in this record the Board finds that while some delay occurred, all of it was not inordinate as alleged. In view of the long period of

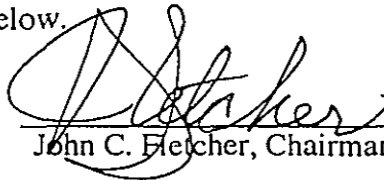
absence, and the nature of the illness, Carrier was justified in requiring additional medical examinations. These, though, should have been scheduled with more dispatch. Accordingly we will order that Claimant be paid for 13 days, as a result of the delays.

A W A R D

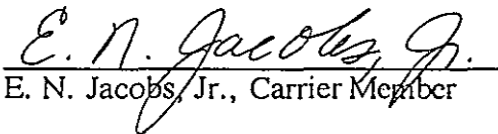
Claim sustained for 13 days pay

O R D E R

Carrier to comply with this award and make all payments due within thirty days of the date indicated below.



John C. Fletcher, Chairman & Neutral Member



E. N. Jacobs, Jr., Carrier Member



Richard A. Lau, Employee Member

Dated at Mt. Prospect, Illinois., January 26, 1998