PARTIES: United Transportation Union (successor to Brotherhood of Railroad Trainmen)
TO: Atlantic Coast Line Railroad Company

STATEMENT OF CLAIM: "Trainman L. S. Bugner, time of local freight 574-575, December 13, 1963 - December 31, 1963, and January 1, 1964 - January 9, 1964, due to being held out of service for physical examination after being released by Company Physician and receiving form 38 to return to work."

FINDINGS: The First Division of the National Railroad Adjustment Board, upon the whole record and all the evidence, finds that the parties herein are carrier and employees within the meaning of the Railway Labor Act, as amended, and that this Division has jurisdiction.

Hearing was waived.

The record in this case fails to support Carrier's action in withholding Claimant from service for the period in question. Claimant had been apprised that all he needed to return to work following his release from the VA hospital was a report from his treating physician and a Form 38 from a company doctor. He complied with these instructions and had in fact received a Form 38 from a local Carrier physician certifying that he would be able to work on December 14, 1963. Certainly, if Carrier's medical department had sufficient reason to have wanted Claimant withheld from service pending evaluation of any medical data which he had presented on his return to duty, it was incumbent upon the Carrier's medical department to have so alerted or informed its local physician.

AWARD: Claim sustained.

DATED AT CHICAGO, ILLINOIS, THIS 14TH DAY OF SEPTEMBER 1984.

NATIONAL RAILROAD ADJUSTMENT BOARD
BY ORDER OF FIRST DIVISION

ATTEST:

Nancy J. Leuer
Executive Secretary