

NATIONAL RAILROAD ADJUSTMENT BOARD
FIRST DIVISION

With Referee Robert E. Peterson

Award 23658

Docket 40895

PARTIES (United Transportation Union (successor to Brotherhood of
TO (Railroad Trainmen)
DISPUTE (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 employes 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.

NATIONAL RAILROAD ADJUSTMENT BOARD
BY ORDER OF FIRST DIVISION

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

ATTEST:


Nancy J. Leever
Executive Secretary