

NATIONAL RAILROAD ADJUSTMENT BOARD
FOURTH DIVISION

Referee Herbert L. Marx, Jr.

Award Number 4561
Docket Number 4571

PARTIES TO DISPUTE: United Transportation Union - Yardmasters Department
Baltimore and Ohio Railroad Company

STATEMENT
OF CLAIM:

Yardmaster J. O. Nash of Baltimore, MD is claiming one day's pay for date of June 16, 1985 and every day thereafter through and including June 28, 1985 account of being held out of service on claim dates after his personal physician certified that Mr. Nash was physically fit to return to work full time without restrictions on June 14, 1985.

OPINION OF BOARD: Following absence owing to illness, Claimant reported for and was given a return-to-work physical examination on June 10, 1985. The examination was made by a doctor retained by the Carrier. His report was sent to the Carrier's Chief Medical Officer for review and approval.

Carrier's Chief Medical Officer did not indicate his approval until June 28, 1985, at which time the Claimant was permitted to return to work. (He commenced a pre-scheduled vacation immediately thereafter, but this is not pertinent to the dispute herein.)

The record also shows that the Claimant's personal physician had provided a note approving Claimant's return to work as of June 14. This note was undated, and there is some uncertainty as to when it was received by the Carrier.

The Organization argues that the Claim must be sustained because of the unreasonable time taken by the Carrier to approve the Claimant's return to work.

In questions of reinstatement following illness, there are frequently circumstances which may require further medical review or which raise some doubt as to the employee's capability to meet the requirements of his position. Such, however, is not present here. The delay appears to have been caused by the transmission of the examination report from the examining physician to the office of the Chief Medical Officer. No further information was requested of the Claimant, nor were there qualifications placed on his return.

The Carrier is, of course, entitled to a reasonable time to review medical evidence. Numerous awards have made a general determination that

five days is sufficient for this purpose, absent the need for further examination or additional data. To this general effect are Fourth Division Award No. 2948; Second Division Award No. 11042; and Third Division Award Nos. 20674 and 24146. In the instance here under review, there is ample support for the view that the Claimant was unduly delayed in being permitted to return to work.

Given the timing of the examination on June 10 and the arrangement of the Claimant's weekly working schedule, the Board finds that the Claimant is entitled to reimbursement for straight-pay he would have earned on his scheduled days commencing June 18, 1985 through June 27, 1985.

FINDINGS:

The Fourth Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The Carrier and the Employes involved in this dispute are respectively Carrier and Employes within the meaning of the Railway Labor Act, as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

The parties to said dispute were given due notice of hearing thereon.


The parties to said dispute waived right of appearance at hearing thereon.

A W A R D

Claim sustained in accordance with the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Fourth Division

ATTEST:


Nancy J. Bever
Executive Secretary

Dated at Chicago, Illinois this 17th day of September 1987.