

NATIONAL MEDIATION BOARD
PUBLIC LAW BOARD NO. 5332

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| Parties to Dispute: |) | |
| |) | |
| INTERNATIONAL BROTHERHOOD OF |) | <u>AWARD</u> |
| ELECTRICAL WORKERS |) | |
| |) | Case No. 175 |
| -and- |) | |
| |) | Claimant C. M. Snyder |
| NORFOLK SOUTHERN RAILWAY |) | |
| COMPANY |) | |

STATEMENT OF CLAIM:

“Claim on behalf of Electrician C. M. Snyder in Altoona, Pennsylvania, for reinstatement with seniority rights unimpaired and made whole for all losses sustained. These begin the date removed from service, continue to the present date and include, but are not limited to, lost wages, vacation rights, health and welfare and insurance benefits, pension benefits such as Railroad Retirement and Unemployment Insurance, and any other benefits that would have been earned during the time Electrician Snyder is unjustly withheld from Carrier’s service. We also request his personal record be cleared of this matter.”

FINDINGS:

The Board finds that the parties herein are Carrier and Employee as defined by the Railway Labor Act, as amended; that the Board has jurisdiction over this dispute; and that due notice of the hearing thereon has been given to the parties.

Claimant Snyder, according to the record before the Board, was placed on medical leave April 13, 2017, following surgery after Carrier’s Health Services unit concluded his neurological condition, including ongoing seizures, rendered him unfit for his work as an Electrician at Altoona, PA. Carrier’s notice advised that his status would be re-evaluated in three months. On April 24, 2017, Claimant’s physician issued a report indicating that his patient “is released from a neurological standpoint to return to work full duty with no restrictions.”

Although other factors delayed Claimant’s return to work immediately, on January 9, 2018, his doctor forwarded a note to NSHS advising that his last seizure had been in March

2016 and that “he is stable...and cleared to return to any work position from a neurological standpoint.” On January 25, 2018, NSHS then advised the Mechanical Department that Claimant was medically cleared to return to work, but still barred from operating locomotives and was subject to height limitations. On February 1, 2018, he returned to active service with those restrictions.


On February 18, the union submitted a grievance claiming eight hours for each of Claimant’s assigned workdays between December 1, 2017 and January 31, 2018. Claimant asserted violation of Rule 29 of the controlling Agreement in that Carrier’s notice did not recite a specific charge for removal. Carrier responded that charges are not appropriately filed in matters of medical discipline. The merits of the claim essentially protested the delay between the time carrier was notified of Claimant’s change and his return to service and active pay status.


We agree with the Union that Carrier has not offered any objective foundation to support the delay that ensued between Claimant’s unequivocal medical releases, all properly documented and provided to Carrier on and after January 9, 2018, and his restoration to service on February 1, 2018. The Board accordingly credits the Organization’s contention that the delay was unreasonable.

Carrier is directed to reimburse Claimant for lost earnings incurred from January 15, 2018 to the date of his return on February 1, 2018.

A W A R D

The Claim is partially sustained in accordance with the Opinion.


Tom Owens
Employee Member


James E. Conway
Chairman and Neutral Member


Tara Arnett
Carrier Member

02/11/2020

Dated: January 2020