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**NATIONAL RAILROAD ADJUSTMENT BOARD  
FIRST DIVISION**

Award No. 25005  
Docket No. 44713  
99-1-98-1-U-2009

The First Division consisted of the regular members and in addition Referee Barry E. Simon when award was rendered.

**PARTIES TO DISPUTE:** ( (Brotherhood of Locomotive Engineers  
(Union Pacific Railroad Company (former  
( Chicago & North Western)

**STATEMENT OF CLAIM:**

“Claim in behalf of Engineer G. D. Bartels, SS No. 480-48-1090, Union Pacific Railroad former Chicago and North Western Transportation Company, for compensation for all lost time including time spent at the investigation and this incident be removed from claimant’s personal record and that he be removed from the Union Pacific Discipline System known as Upgrade when he was investigated on the following charge:

‘Failure to comply with instructions issued in certified letters dated February 13, March 10 and March 21, 1997, from Superintendent, Mike Ring requesting current medical documentation.’

Claim premised on 1996 Dual Track System Agreement, Discipline Rule, Attachment A attached as Employee’s Exhibit A.”

**FINDINGS:**

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

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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.

Parties to said dispute were given due notice of hearing thereon.

Claimant sustained a personal injury on April 17, 1996, and subsequently was placed on a medical leave of absence. To maintain this leave, Claimant was directed to provide medical documentation to the Carrier. Requests for such documentation were sent to Claimant on February 13, March 10 and March 21, 1997, but the Carrier did not receive the requested information. Consequently, Claimant was directed to attend a formal Investigation at which he was charged with failing to comply with instructions. Following the Investigation, Claimant was assessed Level 3 discipline pursuant to Carrier's UPGRADE Discipline Policy. This required Claimant to serve a five day suspension and develop a Corrective Action Plan to modify his behavior.

The record in this case establishes that Claimant forwarded the Carrier's requests to his personal physician, asking that the necessary information be sent to the Carrier. He had every expectation that his doctor would comply with this request. More than that, he simply could not do. Claimant could not have provided the information himself; it had to come from his doctor. If the doctor was tardy in providing the information, Claimant should not have been made to suffer the consequences. The discipline in this case, therefore, was unwarranted and must be vacated.

AWARD

Claim sustained.

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**ORDER**

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

**NATIONAL RAILROAD ADJUSTMENT BOARD**  
**By Order of First Division**

Dated at Chicago, Illinois, this 2nd day of June 1999.