

SPECIAL BOARD OF ADJUSTMENT NO. 004

Case No. 1573    Award No. 1573

PARTIES    Brotherhood of Locomotive Engineers  
             to                                - and -  
DISPUTE:    Consolidated Rail Corporation

STATEMENT OF CLAIM:

Claims of Engineer G. E. Houts on December 4, 6  
and 7, 1987 for lost earnings account of improperly  
held out of service.

FINDINGS:    The relevant facts in this case show that the Claimant completed his assignment on Thanksgiving Day, November 26, 1987. At 2:13 a.m. on November 27, 1987, he called the Carrier's Crew Dispatcher to mark-off duty, claiming that he was sick. He was told, at that time, that he was being held out of service until he provided a "doctor's note" as evidence of his illness. On December 2, 1987, the Claimant attempted to return to work, but was not permitted to because he did not provide the documentation from his doctor. Subsequently, on December 8, 1987, the Claimant did provide the requested documentation and he returned to work.

The Carrier has a basic responsibility to itself, its employees and, given its mission, to the public at large which requires that individuals in its active employment be both physically and mentally competent. Further, it is well-established that the Carrier has the right to withhold from the service, pending examination, any employee whose physical or mental condition and ability to work without detriment to himself, fellow employees and the public is placed in reasonable doubt.

Applying the above noted principles to the facts of this case, we must conclude and find that the Carrier did not act in a reasonable manner in this dispute.

There is no evidence in the record that the Claimant was not sick when he called the Dispatcher on November 27, 1987. The Carrier claims that, because of a manpower shortage at that time (November 27, 1987), and that, if the Claimant remained marked-off as sick for November 27, "he would need a doctor's certificate before he would be allowed to"