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SPECIAL BOARD OF ADJUSTMENT

NO. 894

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CONSOLIDATED RAIL CORPORATION

-VS-

BROTHERHOOD OF LOCOMOTIVE ENGINEERS

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DOCKET NO. CRE-18132

CASE NO. 1621

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CLAIMANT: D.L. Blackmon

FOR THE CARRIER: S.R. Friedman, ~~Assistant~~ Director  
Labor Relations

FOR THE ORGANIZATION: Robert Godwin, General Chairman  
BLE

NEUTRAL: Dr. James R. McDonnell

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SENIOR DIRECTOR

SEP 04 1998

LABOR RELATIONS

## STATEMENT OF CLAIM

System Docket No. CRE-18132  
Division Case Nos. 2030301155 and 105 others  
BLE File Nos. DEFG-E-36-260-94 and 281-260-93

"Claims of Engineer D.L. Blackmon for an 8-hour day, between August 17, 1992 to January 19, 1993 (inclusive); plus 9 hours and 84 miles on January 6, 1993."

"Claims of Engineer D.L. Blackmon for payment of 8-hour penalty for not being permitted to exercise seniority as a reserve engineer on January 1, 1993."

## FINDINGS

Upon the whole record and all evidence after the June 18, 1997 hearing in the Carrier's office, Philadelphia, Pennsylvania, and study of post-hearing submissions received on or before June 18, 1997 the Board finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, and that this Board is duly constituted by agreement and has jurisdiction of the parties, and the subject matter.

## DECISION

There are procedural questions before this Board.

The Carrier states that the Claims filed are untimely. This argument is dismissed based on the language in Article G-M-8 Time Limit on Claims.

(b) IF a claimant is absent because of sickness, temporary disability, leave of absence, vacation or suspension, the 60 day time limit shall be extended by the number of days the Claimant is absent.

The second procedural matter deals with Article G-M-13 Physical Disqualification.

(a) When an engineer has been physically disqualified he shall be furnished a copy of the medical report containing the reason for disqualification.

The evidence and documentation heard before the Board makes clear that the Carrier's Medical Department failed to provide the Claimant with the required medical report of his disqualification. The Carrier's failure to follow this procedure is a fatal flaw and cannot be overlooked or denied.

AWARD

The Claim is sustained.

The Claimant shall be made whole for losses sustained.

SR Friedman - DISSENT ATTACH  
S.R. Friedman, Assistant Director  
Labor Relations

Robert Godwin  
Robert Godwin, General Chairman  
BLE

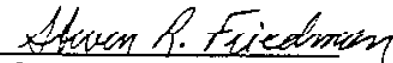
James R. McDonnell  
Dr. James R. McDonnell  
Neutral

June 29, 1998  
Date

jdm

**SBA 894 AWARD 1621  
CARRIER MEMBER'S DISSENT**

The claimant contributed to his loss of wages in this matter by not attending to his medical problems in a scrupulous manner. His "contributory negligence" in this matter was not accounted for in the majority decision and constitutes a windfall award and, therefore, I dissent.



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Steven R. Friedman  
Director-Labor Relations