

Org. File E-5519-27-1(b)
Co. File 011-221 (M)

DECISION No. 796
CASE No. 1187-BLE (Engr)
Supplemental List No. 54

SPECIAL ADJUSTMENT BOARD NO. 180
(Engine Service Panel)

PARTIES TO DISPUTE: Brotherhood of Locomotive Engineers
Southern Pacific Company (Pacific Lines)

STATEMENT OF CLAIM: Claim of Los Angeles District Engineer W. B. Molony that he be permitted to return to duty with seniority and all other employment rights unimpaired, and that he be compensated in an amount equivalent to what he would have earned on each date his assignment or turn performed service, commencing February 10, 1968, until he is returned to duty.

STATEMENT OF FACTS: On August 24, 1967, claimant sustained an injury to his leg, the treatment of which led to a diagnosis (nowhere contradicted) that he was afflicted with Paget's Disease. As a consequence of this finding, the Chief Surgeon of the carrier declared claimant to be unfit to continue in service. A claim for compensation is predicated on the theory that Engineer Molony was improperly disqualified and on that issue the Board is of the following opinion:

DECISION: The entire point in this case is that the claimant is a victim of Paget's Disease, and it is against the policy of the carrier to permit an operating employe, who has Paget's Disease, to remain in service.

The carrier has the right and the duty to establish reasonable physical standards for their employes. For example, men with epilepsy are not qualified, as per the carrier's standards, to work around moving equipment. It is true that a man with epilepsy might be able to perform his work satisfactorily, but the ever present danger of an attack remains.

In the instant case, where it has been established, without refutation, that the claimant has Paget's Disease, the danger to himself remains ever present. It is not a question of his physical ability to perform his work; instead, it is an unfortunate situation where he has a condition that is reasonably considered as a disqualifying condition.

DECISION No. 796
CASE No. 1187-BLE(Engr)
Supplemental List No. 54

-2-

The claim is denied.

David R. Douglass

David R. Douglass, Chairman and
Neutral Member

W. A. Hirst

W. A. Hirst, Assistant Grand
Chief Engineer

S. B. Burton

S. B. Burton, Carrier Member

San Francisco, California
April 3, 1969