

The Second Division consisted of the regular members and in addition Referee Eckehard Muessig when award was rendered.

PARTIES TO DISPUTE: (International Brotherhood of Electrical Workers
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(Seaboard System Railroad

STATEMENT OF CLAIM:

1. That the Seaboard System Railroad Company violated the Controlling Agreement, in particular Rule 23(b) when Electrician A. M. Castro's name was unjustly removed from the seniority roster and terminated at Tampa, Florida.

2. That accordingly, the Seaboard System Railroad Company compensate Electrician A. M. Castro in the amount of eight (8) hours pay per day at the pro rata rate continuous from the date Carrier removed his name from seniority roster until the date Mr. Castro is allowed to return to work and all other rights accrue to his position at Tampa, Florida.

FINDINGS:

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

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employes 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 waived right of appearance at hearing thereon.

The Claimant had been furloughed from his Electrician position in Tampa, Florida in September 1982. On July 18, 1984, the Carrier sent a letter to the Claimant, which was sent by certified-return receipt mail, to his address as shown on the records of the Carrier. This letter informed him that he had been recalled to work at Tampa, Florida. The letter provided detailed instructions as to whom to contact, physical examination requirements, etc., and it advised the Claimant that if he failed to contact the Carrier within the next ten days or to give satisfactory reason for not doing so, his employment status would be terminated. The letter was returned to the Carrier marked "Unclaimed" by the U.S. Postal Service.

On July 30, 1984, another letter was sent to the Claimant at the same address used for the July 18th letter. In part, it stated that, because he

had rejected the recall "per phone conversation with your wife on July 26, 1984", his seniority had been terminated. This letter also was returned marked "Unclaimed" by the Postal Service.

The Claim at issue was submitted on December 26, 1984. The Claimant mainly contends that the only contact he had with the Carrier was conveyed through his wife; that the recall to work was for a temporary job; that he did not receive either of the two certified letters; that at the time the Carrier contacted his wife, he was in the process of moving; and that he left her work telephone number so that he could be contacted should a permanent job become available.

The Claim was rejected by the Carrier on the basis that it was not submitted in a timely fashion, in this case, sixty days after the Claimant's July 30, 1984 termination. The Carrier also rejected the Claim on its merits because the Claimant failed to respond to his recall to work within ten days.

Following further exchange of correspondence on the property, the Claim was progressed to this Body for adjudication. Under the circumstances prevalent herein, the Board concludes that this matter may be best disposed of on its merits.


Rule 23(b) requires the Claimant to provide the Carrier with a proper mailing address. He did not do so. Instead, he chose to rely upon a line of communication that consisted of his wife's work phone number, as essentially brought forth in the various pieces of correspondence of record. While there are a number of contentions, the Claimant mainly relies upon his assertion that the Carrier's vacancy was of a temporary nature. We find no substantive evidence in the record developed on the property that the position for which the Claimant was recalled was temporary.

In summary, while we appreciate the substance of the Organization's arguments on the property and its vigorous stand before this Board, these cannot overcome the Claimant's own inaction. He was aware that a position was available and that he had not provided a proper address to the Carrier. Under the circumstances, it was incumbent upon him to take more positive measures to assure open and clear lines of communication between he and the Carrier. His failure to do so was at his peril.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: 
Nancy J. Deyer - Executive Secretary

Dated at Chicago, Illinois, this 31st day of August 1988.