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NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 6545
Docket No. 6418
2-C&O-CM-'73

The Second Division consisted of the regular members and in addition Referee Edmund W. Schedler, Jr. when award was rendered.

Parties to Dispute: { System Federation No. 41, Railway Employees'
 { Department, A. F. of L. - C. I. O.
 (Carmen)
 { Chesapeake & Ohio Railway Company

Dispute: Claim of Employees:

1. That Carmen, John D. Chafins, Shanon Jaynes and Hershel Bias were not properly recalled to service from furlough status June 17, 1971 account junior carmen being called and utilized on said date in violation of Rule 27 of the Shop Crafts Controlling Agreement.
2. Accordingly Chafins, Jaynes and Bias are each entitled to be additionally compensated eight (8) hours at Carmen's applicable straight time rate for June 17, 1971 in lieu of said violation.

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 employe 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.

This dispute involved the return to service of the working forces after a day layoff due to a coal miners strike. The Claimants state that junior employees were returned to work prior to senior employees. The relevant language of the Agreement is as follows:

"REDUCTION IN FORCES

Rule 27

- (c) In the restoration of forces senior laid off employes will be recalled and will notify the recalling officer in writing, within 10 days of receipt of notice, of his intention to return. Those failing to notify of their intention to return

as provided herein or failing to return within a reasonable time will forfeit their seniority on the roster on which recalled.

- (d) The local committee will be furnished a list of men to be restored to service.
- (e) Eliminated.
- (f) Effective May 1, 1956. When positions are abolished and subsequently restored within thirty (30) calendar days, the last regularly assigned incumbent must return to their former position unless:
 - 1. They have been displaced thereon by a senior employe under Rule 60 $\frac{1}{2}$.
 - 2. There is a senior qualified furloughed man entitled to recall ahead of the former incumbent.

When an employee returns to reestablished position under this paragraph, all employes disturbed account the abolishment must return to their former assignments in the same manner as herein provided."

There is no dispute over the facts of this grievance, the matter in dispute must be determined by an interpretation of the above written contract language. The positions abolished were restored within 30 calendar days; therefore Rule 27 (f) must apply. Rule 27 (f) is a specific rule that is an exception to the general rule of Rule 27 (c). Whenever there is a conflict between the specific language and general language in a contract, the specific language will apply.

However in reading Rule 27 (f) we note there are 2 exceptions within 27 (f). The Organization contends that exception 2 applies in that at 11 PM on June 17, 1971 there were senior qualified men on furlough that were entitled to recall, and the facts disclosed that this was true. Therefore under Rule 27 (f) exception 2 the Claimants were entitled to be called back ahead of less senior employees.

A W A R D

After a careful consideration of all the evidence and upon the foregoing findings of fact the Organization's grievance in the behalf of John D. Chafins, Shannon Jaynes and Hershel Bias is sustained. The carrier

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will immediately offer to pay Chafins, Jaynes and Bias one day pay each for the carrier's failure to call them back before less senior employees on June 17, 1971.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:

E. A. Kellen

Executive Secretary

Dated at Chicago, Illinois, this 28th day of June, 1973.