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Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 6568
Docket No. 6419
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)
(
(The Chesapeake and Ohio Railway Company
((Chesapeake District)

Dispute: Claim of Employees:

1. That carmen-tentative Jackie R. Gill, Virgil W. Vest and David C. Meadows were improperly omitted from the January 1, 1971 carman helper and carmen-tentative seniority rosters at Hinton, West Virginia, while Cletis F. Pack, furloughed from Thurmond, West Virginia was given helper seniority at Hinton with date of 8-13-70 and carmen tentative seniority of 7-20-70. Also three new employees were hired and given seniority at Hinton as follows: Cleve E. McHenry (helper 7-27-70) (carman-tentative 8-3-70); James P. Jordan (helper 9-1-70) (carman-tentative 9-9-70) and Walter D. Neely (helper 10-15-70) (carman-tentative 10-22-70). This in violation of Rule 31 of the Shop Crafts Agreement.
2. Accordingly, the names of Gill, Vest and Meadows should be placed on the carman helper and tentative carmen seniority rosters at Hinton ahead of Pack, McHenry, Jordan and Neely. Furthermore Gill, Vest and Meadows are each entitled to be additionally compensated eight (8) hours at carmen's applicable straight time rate for each day that any of the said junior men work and Gill, Vest and Meadows are not called and do not work forty (40) hours per week, commencing (March 22, 1971 for Gill) February 17, 1971 for Vest) and (March 10, 1971 for Meadows); the dates when each claimant made proper application for extra work under provisions of Rule 27 $\frac{1}{2}$.

Findings:

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

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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.

In this dispute the Claimants; Jackie R. Gill, Virgil W. Vest, and David C. Meadows, alleged they were improperly omitted from the January 1, 1971 Carman helper and carman-tentative seniority rosters at Hinton, West Virginia; while three other employees, to wit; Cleve E. McHenry, James P. Jordan, and Walter D. Neely; were hired and given seniority ahead of the Claimants at Hinton.

The evidence disclosed the Carrier offered to settle this grievance by placing the Claimant's names ahead of McHenry, Jordan and Neely. Claimants Vest and Meadows agreed to the proposed settlement; however Gill wanted a monetary settlement and refused the offer.

The evidence disclosed Claimant Gill reported off sick from February 20, 1971 to March 19, 1971 at which time he filed a request for work as a carman-tentative at Hinton under Rule 27 $\frac{1}{2}$. Gill was called to work on April 2, 3, and 4, 1971, but he reported off sick. He was called to work again on April 6, 11, 12, 15, 16, 17 and 18, 1971 but he refused to accept the work offered him each time. Rule 27 $\frac{1}{2}$ reads, inter alia:

"Furloughed employees who would not at all times be available for such service will not be considered available for extra and relief work under the provisions of this rule."

and the understanding specifically relating to Rule 27 $\frac{1}{2}$, which reads:

"Understanding (2) - (Effective May 18, 1959).

Rule 27 $\frac{1}{2}$ provides that furloughed employees who are not at all times available for work will not be considered as available for work under the rule."

Clearly, Claimant Gill was not available for work at all times and we find that he was not entitled to a monetary settlement.

The carrier's offer of August 13, 1971 of a revised seniority list for the employees involved herein is a fair settlement and that offer will be the award of this Board.

A W A R D

The seniority roster will be revised as follows:

<u>Name</u>	<u>Carman Helper</u>	<u>Carman-Tentative</u>
Jackie R. Gill	8-13-70	9-11-70
Virgil W. Vest	10-12-70	12-1-70
David C. Meadows	10-12-70	12-1-70
Cleve E. McHenry	12-1-70	12-1-70
James P. Jordan	12-1-70	12-1-70
Walter D. Neely	12-1-70	12-1-70

Claimant Gill's claim for a monetary settlement is denied.

Form 1
Page 3

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NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By: Rosemarie Brasch
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 23rd day of July, 1973.