

The Second Division consisted of the regular members and in addition Referee Nicholas H. Zumas when award was rendered.

Parties to Dispute: { International Association of Machinists
 { and Aerospace Workers
 {
 { The Chesapeake and Ohio Railway Company
 { (Chesapeake District)

Dispute: Claim of Employees:

1. That Machinists R. L. Rose and B. O. Carpenter were transferred from the first shift to the second shift at the instance of the company on August 29, 1972.
2. That accordingly, Machinists R. L. Rose and B. O. Carpenter should be compensated in the amount of four hours pay each, at the straight time rate of \$4.99 per hour.

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.

The question to be determined in this dispute is whether Claimants transferred from first shift to second shift at the insistence of Carrier (entitling them to "shift pay" under Rule 13(a) of the Agreement), or whether it was a transfer through the exercise of seniority (which does not entitle them to "shift pay").

The Board finds that the claim must be sustained. Even if the positions had in fact been abolished as Carrier contends (and there is no evidence that they were), it is unrefuted that Claimants were not so advised nor was a copy furnished to the Local Chairman. Under these circumstances the position of the Carrier is without merit.

Form 1
Page 2

Award No. 6790
Docket No. 6635
2-C&O-MA-'74

A W A R D

Claim sustained.

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 25th day of November, 1974.