

The Second Division consisted of the regular members and in addition Referee George S. Roukis when award was rendered.

Parties to Dispute: (System Federation No. 7, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Electrical Workers)
(Burlington Northern Inc.

Dispute: Claim of Employes:

1. That in violation of the current agreement, Student Lineman - Randy Wilson was dismissed from service of the Burlington Northern Inc., on November 12, 1976.
2. That the Carrier violated the procedural provisions of Rules 29, 30 and 31, of the Agreement, effective April 1, 1970, when letter dated January 19, 1977 from Mr. D. D. Floyd, Assistant Director Communications, Burlington Northern Inc., to Mr. N. D. Schwitalla, General Chairman, failed to be complete or concise by not setting forth in writing the reason for declining the claim.
3. That accordingly, the Carrier be ordered to reinstate Mr. Wilson to service in this former position with The Burlington Northern Inc., with all seniority rights, pass privileges, vacations and/or vacation payments and holiday or holiday payments, back payments for all hospitalization, railroad retirement benefits and any other rights, privileges or benefits allowable under schedule agreements and/or law and compensated for all lost wages.

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.

Our review of the conflicting objections does not reveal any procedural irregularities that affect the integrity of this case.

The critical question posed by this dispute is whether or not claimant was in the service of Carrier within the interpretive context of the Organization's Agreement.

Admittedly, there is a tendency to read Rule 31 broadly. The language states clearly in part, that "an employee who has been in the service of the railroad sixty (60) days shall not be dismissed for incompetency." It does not indicate what "service" is or how it is to be applied. If this provision were not found in the collective bargaining agreement, it would be logical to construe this provision literally and conclude that claimant had been in the service sixty (60) days and thus within his rights. But the language is found in the International Brotherhood of Electrical Workers' agreement and expresses and defines its interests. It does not address another bargaining unit's conditions of employment.

Therefore, in the absence of proof that, "in the service of the railroad" does not apply to this community of interest when computed within the sixty (60) days requirement, we have no option other than to conclude that Rule 33 is applicable and that Carrier's decision to terminate claimant's employment was consistent with this provision.

Under this Rule as well as the general practice in labor-management relations, the bargaining unit seniority status that is conferred upon the successful applicant evolves from the language of the agreement and applies to the employees who fulfill its terms. It does not presuppose a lesser term of service than sixty (60) days in the unit. Since claimant did not complete the sixty (60) days bargaining unit service, we must deny the claim.

A W A R D

Claim denied.

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 26th day of April, 1979.