

The Second Division consisted of the regular members and in addition Referee John B. LaRocco when award was rendered.

Parties to Dispute: { Brotherhood Railway Carmen of the United States
{ and Canada
{ Burlington Northern Railroad Company

Dispute: Claim of Employees:

- 1) That the Burlington Northern, Inc. violated the terms of the controlling agreement, specifically Rule 26 and the Memorandum of Agreement dated November 15, 1974C, (BN 11/15/74(c)) when they failed to remove the name of a Sheet Metal Apprentice from the Pacific District Coach Cleaner seniority roster.
- 2) That accordingly, the Burlington Northern, Inc. be ordered to remove the name of Sheet Metal Apprentice J. B. Andrina from the Pacific District Coach Cleaners seniority roster.

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.

On February 26, 1980, the Organization commenced this claim by demanding that the Carrier immediately remove Mr. J. B. Andrina from the Pacific District Coach Cleaners' seniority roster. According to the Organization, Mr. Andrina could no longer hold seniority as a Coach Cleaner since he had transferred to the sheet metal worker craft and he had established seniority as a sheet metal worker apprentice on April 17, 1978. In support of its claim the Organization cites Rule 26 of the controlling agreement between the Carrier and five shopcrafts (including this Organization) and Rule 38(h) of the Memorandum of Agreement dated November 15, 1974 which was an ancillary contract between the Carrier and this particular Organization. The Organization argues that when read in conjunction with Rule 26 of the working agreement, Rule 38(h) prevents Mr. Andrina from retaining seniority as a Coach Cleaner once he transfers to the sheet metal worker craft and accumulates seniority as a sheet metal worker apprentice.

The Carrier places a different interpretation on Rule 38(h) of the November 15, 1974 Memorandum of Agreement. The Carrier contends that since the Memorandum

of Agreement merely amended Rule 38(h) of the schedule Agreement, Rule 38(h) actually prohibits the Carrier from dropping Mr. Andrina from the Coach Cleaner seniority roster until he attains journeyman status in the sheet metal worker craft.

Rule 38(h), as amended by the November 15, 1974 Memorandum of Agreement, states:

"(h) Apprentice Seniority - Apprentices who hold seniority in other classes under agreements with any of the parties hereto, will retain and accumulate that seniority during their training period; but all such seniority shall automatically terminate upon acquisition of a mechanic's seniority date. Apprentices will hold seniority as such, separated by crafts, on the seniority district where their training commenced, as of the first day worked as apprentice. This seniority will be utilized only for the purposes of vacation selection, reductions in force and for choice of working hours and rest days, when more than one apprentice is in training at the same point and a seniority preference can be honored without interfering with training in the various aspects of work. Apprentices will not obtain seniority on other seniority districts to which they may be transferred for the purpose of acquiring training and experience, unless permanently transferred from one seniority district to another under Section IV of Implementing Agreement No. 1 dated May 18, 1970." (Emphasis added)

When confronted with clear and precise language, we must give effect to the literal and common meaning of the words in the rule. In this case, the first sentence of Rule 38(h) protects the accumulated seniority of an apprentice who has seniority under any other agreement to which either the Carrier or the Organization are parties. Inasmuch as the 1974 Memorandum of Agreement amended Rule 38 of the controlling shopcrafts' agreement, the language of Rule 38(h) was designed to protect the seniority of an employee, like Mr. Andrina until he attained a mechanic's seniority date in another craft. Rule 26 does not address the situation presented in this case; that is, the status of a worker who transfers to the apprenticeship program of another craft. Thus, since Mr. Andrina held the position of sheet metal worker apprentice on February 26, 1980, his name could not be removed from the Pacific District Coach Cleaners' seniority roster.

A W A R D

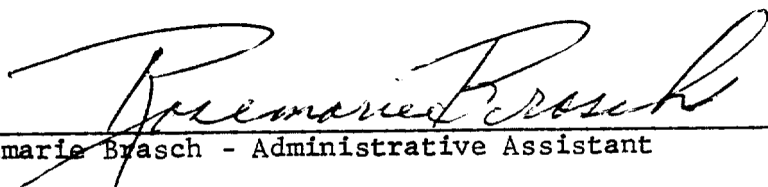
Claim denied.

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Award No. 9150
Docket No. 9381
2-BN-CM-'82

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Acting Executive Secretary
National Railroad Adjustment Board

By 
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 16th day of June, 1982.