

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISIONAward No. 9248
Docket No. 9437
2-ICG-SMW-'82

The Second Division consisted of the regular members and in addition Referee James F. Searce when award was rendered.

Parties to Dispute: (AFL-CIO Sheet Metal Workers' International Association
(Illinois Central Gulf Railroad Company

Dispute: Claim of Employees:

1. The Illinois Central Gulf Railroad violated the provisions of the controlling agreement when they improperly removed Sheet Metal Worker John R. Batte from the Apprentice, Sheet Metal Workers Seniority Roster following his resignation as Machinist Apprentice, dated April 30, 1971.
2. That accordingly, the Company be ordered to correct the 1980 Seniority Roster for Sheet Metal Workers under the Schedule "A" Agreement in McComb, Mississippi, in an appropriate manner which will reflect Mr. Batte's actual service as a Sheet Metal Worker Apprentice, had the Company not improperly removed his name from the 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 employees 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.

Claimant was hired as a Sheet Metal Worker Apprentice in April of 1964. For the next six (6) years he worked in such capacity, except for military service leave and periods of furlough. On April 7, 1970, the Claimant was last furloughed as a Sheet Metal Worker Apprentice. Shortly thereafter, he was hired as a Machinist Apprentice and worked at that position for approximately one year; on April 30, 1971, he submitted his resignation as Machinist Apprentice for the stated purpose of accepting other employment outside the Carrier. The next contact with the Claimant came when he was rehired as a Sheet Metal Worker (Pipefitter) on February 20, 1979; his seniority was established as of that date. When the 1980 seniority rosters were published, issue was taken by the Claimant with his February 20, 1979 seniority date.

The Organization contends that the specific language and intent of the Claimant's letter in April of 1971 was to resign as Machinist Apprentice and not as Sheet Metal Worker Apprentice. Per the Organization, the Claimant should have continued to be carried as a Sheet Metal Worker Apprentice in a furlough status, subject to recall and that his seniority date, consequently, should reflect all

service as a Sheet Metal Worker Apprentice. The Carrier contends that the Claimant terminated all service by his resignation in 1971 and was rehired in 1979. The Carrier also cites two time limit Rules, one involving seniority rosters (Rule 32) on which the Claimant should have been listed but which was devoid of his name for seven years without protest. The other time limit Rule (37 (a)) requires an employee to raise the issue within 60 days of the date of the occurrence of the disputed event -- a time period, per the Carrier, far exceeded by the Claimant's inaction.

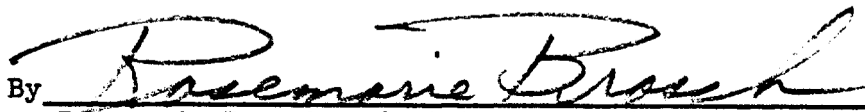
We need look no further than the Claimant's resignation in assessing this case. While it is obviously in his own interests to conclude that his resignation was only from one craft, it was not within the Claimant's authority to limit such action unilaterally. It is well-established that an employee sacrifices all rights and benefits by the voluntary cessation of service. If the Claimant had some other intent in mind (e.g. to go back to furlough status as a Sheet Metal Worker Apprentice) he would have done well to have sought advice and/or approval from the Carrier before terminating employment. He did not and the result was an end to all rights and benefits, including seniority. His status in 1979 was that of a new hire.

A W A R D

Claim denied.

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 22nd day of July, 1982.