

The Second Division consisted of the regular members and in addition Referee Robert W. McAllister 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 Rules 22, 26 and the Memorandum of Agreement dated November 15, 1974C, when they failed to properly return to service furloughed Coach Cleaner Murray McGowen, Seattle, Washington, in seniority order on September 3, 1980.
- 2) That accordingly, the Burlington Northern, Inc. be ordered to compensate Coach Cleaner Murray McGowen, Seattle, Washington, for all time lost from September 3, 1980 until he is restored to service, restoration of all fringe benefits, including vacation, seniority unimpaired, pass rights, and made whole for all Health and Welfare and Life Insurance benefits, made whole for pension benefits, including Railroad Retirement and Unemployment Insurance, and made whole for any other benefit he would have earned during the time he was held out of service, commencing September 3, 1980 and continuing until properly restored to service.
- 3) That accordingly, the Burlington Northern, Inc. be ordered to remove the name of Electrician Apprentice H. Gioulis 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 employee or employees involved in this dispute are respectively carrier and employees 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 October 29, 1980, the Organization initiated this claim in behalf of Coach Cleaner Murray McGowan, the Claimant, demanding he be recalled to duty effective September 3, 1980, in that a furloughed electrician helper was returned to service as a coach cleaner in place of the Claimant. As an electrician's apprentice, H. Gioulis had a seniority day of July 30, 1979. In support of its claim, the Organization cites Rules 22(d) and (e), Rule 26(e) and (g), the Apprenticeship Memorandum of Agreement (11/15/74), and the Letter of Understanding from Systems Federation (9/22/77). The Organization asserts the notion of permitting employees outside its craft to be simultaneously on the Organization's seniority roster undermines the significance and purpose of Rule 26 which provide that there shall be a seniority roster in each craft and that the employee's seniority shall be confined to the craft, class at which employed.

The Carrier views the November 15, 1974, Memorandum of Agreement, which amended Rule 38, to support its position and that Rule 38(h), as amended, specifically allows employes covered by the common schedule agreement to maintain seniority until their apprenticeship is completed and they have attained journeyman status.

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

"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."

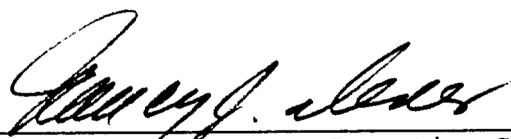
This Board finds the evidence demonstrates this amended language is part of the Common Schedule Agreement, and where the language specifically refers to the parties hereto, it means signatory hereto and applies to all the shop crafts who are a party to the Common Schedule Agreement. If the Board were to accept the Organization's position, it would require ignoring the words "with any of the parties hereto" contained in the first sentence of Rule 38(h). This language protects the seniority of any apprentice in all crafts signatory to this agreement. Much emphasis has been placed by the Organization on a letter addressed to the Carrier's Vice-President of Labor Relations and authored by System Federation Seven dated September 22, 1977. As submitted, it is a unilateral document with no evidence of concurrence on the part of the Carrier. We further find Rule 26 has no application to this case in light of the controlling language of Rule 38(h). In summation, this Board finds the Carrier did not violate the terms of the controlling Agreement when it failed to return the Claimant to service on September 3, 1980.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest:

  
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 19th day of September 1984.