

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 10949
Docket No. 10993-I
2-B&A-I-F&O-'86

The Second Division consisted of the regular members and in addition Referee Raymond E. McAlpin when award was rendered.

(James Morizzo
Parties to Dispute: (
(Bangor and Aroostook Railroad Company

Dispute: Claim of Employees:

Rules Violated: Section #1; #3 A,B, C; Rule # 122 others Rule #15

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 employes 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 June 4, 1984, the Carrier recalled two furloughed Laborers, J. P. Johnston, seniority date August 19, 1974 and H. J. Badger, seniority date June 21, 1976. These two individuals were recalled instead of the Claimant. The Claimant's seniority date is July 26, 1976.

The Claimant argued that the Carrier recalled individuals belonging to the Carman's Union to perform work belonging to the Laborers. In addition, the Claimant stated that the Carrier had violated Rule 15 which states in pertinent part "When new jobs are created or vacancies occur in the respective crafts, at a point, the oldest employees in point of service shall, if sufficient ability is shown by trial, be given preference in filling such new jobs or any vacancies that may be desirable to them. All vacancies or new jobs created will be bulletined . . .". It was the Claimant's contention that the jobs in question should have been bulletined, at which point since he was a member in good standing of the International Brotherhood of Firemen and Oilers, which is the Organization representing the work on this line, that he would have had an opportunity to bid for a job and would have been the successful bidder.

The Carrier argued that the two employees in question were Number 13 and Number 17 on the Seniority List. Membership in a particular Labor Organization is not a responsibility of the Carrier unless this dispute is brought to the attention of the Carrier. The Carrier notes the Seniority List had been properly posted and that no protests of the seniority dates had been noted. Rule 28(b) allows employees to hold seniority in more than one craft, under certain circumstances, and this was involved in this case. With respect to the alleged violation of Rule 15, the Carrier submits that this applies to new positions only. This case involved a recall of furloughed employees, in which case Rule 23 applies, which states in pertinent part ". . . in the restoration of forces, senior laid off men will be given preference in returning to service, if available within ten days unless such time is extended by proper authority in conjunction with the Local Committee, and shall be returned to their former position if possible. . . . "

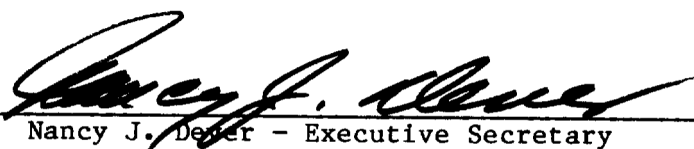
Upon complete review of the evidence presented, the Board finds the Carrier called furloughed employees back in the proper order of the Seniority List. There was no challenge to this Seniority List or the seniority dates contained therein by any of the Labor Organizations on the property. The Board finds that Rule 15 is not applicable and Rule 23 is applicable and the Carrier has followed Rule 23 completely. This Board has held consistently that proper standing or membership in a Labor Organization are not within the jurisdiction of the Board. The Board finds no merit in the Claimant's position. Therefore, the Claim will be denied.

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 6th day of August 1986.