

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 12057
Docket No. 11973-I
91-2-90-2-81

The Second Division consisted of the regular members and in addition Referee Eckehard Muessig when award was rendered.

PARTIES TO DISPUTE: (F. C. Ritter
(CSX Transportation, Inc.
(Chesapeake and Ohio Railroad Company)

STATEMENT OF CLAIM:

1. That the service rights of F. C. Ritter and the provisions of Rule 27 of the Shop Crafts Agreement were violated, account said employee was not called for service as a Painter Helper while arrangements were made to hire other Carman Helpers at the Raceland Car Shop on January 5, 1987 for this service.

2. Accordingly, Helper Ritter is entitled to be compensated for all days that he lost as a result of a junior Helper working commencing with the date of February 3, 1987.

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 employee 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.

In this case, the Claimant asserts that the Carrier violated Rule 27 because he was not called for service as a Painter Helper while he was furloughed as a Carman Helper.

The record shows that in January 1987, after the Carrier had recalled all available Painters and Painter Helpers, it still had a need for additional employees. At that point, the Carrier had the right to hire additional Painter Helpers on the open market. However, it agreed with the Organization's Local Chairman to offer Painter Helper positions to furloughed Carman Helpers in the same relative order as they stood on the Carman Helper seniority roster. If a Carman Helper could not be contacted, it was agreed that the next furloughed Helper would be contacted until the requirement was met. The evidence shows that efforts were made to contact the Claimant in this case to no avail.

Clearly, there is no violation of Rule 27 because this Rule specifies that Painter Helpers and Carman Helpers are two separate seniority subdivisions of the Carman's craft. Therefore, Carman Helpers have no contractual right to be recall for Painter Helper positions. Conversely, Painter Helpers have no contractual right to be recall for Carman Helper positions.

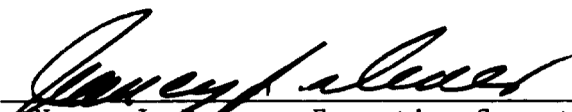
Moreover, the Board notes that the Carrier's letter of April 2, 1987 to the Organization, in which it recounts the substance of the parties' understanding with respect to the use of furloughed Carman Helpers, was not refuted on the property and, therefore, stands as fact.

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 15th day of May 1991.