

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 12368
Docket No. 12307
92-2-91-2-101

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

PARTIES TO DISPUTE: (International Brotherhood of Electrical Workers
(
(Missouri Pacific Railroad Company

STATEMENT OF CLAIM:

1. That the Missouri Pacific Railroad Company has not properly applied the language of Part II, paragraph J of the Consent Decree (Case No. 85-OFC-3) dated November 28, 1934 and Part II<paragraph D, of the Supplemental Consent Decree (Case No. 85-OFCI-3) dated August 18, 1987 when they denied Electrician C. Z. Haley the seniority date (service date) of April 29, 1980 for the limited purpose of determining days of vacation time and personal leave days as of when he was rejected by the Missouri Pacific Railroad Company for employment.

2. That, accordingly, the Missouri Pacific Railroad Company be ordered to establish to their correct number Electrician C. Z. Haley's qualifying years for days of vacation time and personal leave days so as to reflect the April 29, 1980 seniority date (service date), to be in compliance with the National Vacation Agreement of December 17, 1941, as revised, and Article X of the December 11, 1981 National Agreement dealing with Personal Leave Days.

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.

The significant events leading to this dispute arose because of a Court approved Consent Decree which required the Carrier to hire certain individuals, including the Claimant, and to provide them an employment or service relationship with the Carrier as though they had been hired in 1980.

The Claimant was hired on December 7, 1987. His original application had been rejected on April 29, 1980, and, therefore, pursuant to the Consent Decree, his service time for the purposes of determining vacations and personal leave entitlement were calculated from the 1980 date. The Claimant takes issue with the years to be credited pursuant to the Consent Decree.

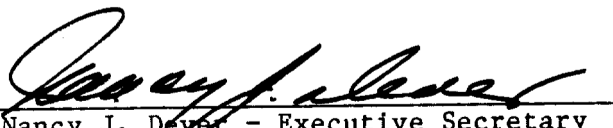
The Board concludes that it lacks jurisdiction in the matter. The Consent Decree of August 14, 1987, provides for a procedure to be followed when there is an alleged violation of any portion of that decree with respect to its application.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Deyer - Executive Secretary

Dated at Chicago, Illinois, this 1st day of July 1992.