

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Award No. 13329

Docket No. 13074

98-2-95-2-98

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

(System Council No. 6
(International Brotherhood of Firemen and Oilers
PARTIES TO DISPUTE: (
(CSX Transportation, Inc. (former Chesapeake &
(Ohio Railway Company)

STATEMENT OF CLAIM:

- “1. That under the current and controlling agreement, Firemen and Oiler B. J. Dillard, ID# 2622144 was unjustly denied the opportunity to exercise his seniority which denied him of an opportunity to perform service from July 5, 1994 through the present date.
2. That accordingly, CSX Transportation, Inc. be ordered to make Firemen and Oiler B. J. Dillard whole for all income to which he would have been entitled plus restoration of all holiday, vacation, health and welfare benefits along with being placed on the Willard, Ohio roster with all other rights and benefits and/or privileges he would have been entitled to under the rules, agreements, custom or law.”

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 were given due notice of hearing thereon.

This dispute concerns a claim by the Organization that the Carrier violated the contractual provisions of Rule 27 - Work for Furloughed Employees, because an employee junior to the Claimant was placed in a vacant Firemen and Oiler position at Willard, Ohio.

The relevant facts of the claim show that the Claimant held seniority on the former C&O Railway at Walbridge, Ohio. This case arose when the Claimant sought a transfer to Willard, but was not selected by the Carrier for the position.

Rule 27, on which the Organization relies, provides that furloughed employees may transfer to positions at other locations to which their seniority entitles them and for which they are qualified. The Carrier determined that because the Claimant had a long history of personal injuries, excessive absenteeism and tardiness, he was not qualified for the position.

The Board finds that the Carrier had a proper basis for not offering the Claimant the position at Willard. His overall work record is not good. For example, his record shows repeated discipline for absences (leading to one dismissal), one discipline during a period of probation, falsifying his daily service card and leaving a work assignment without permission. The record also establishes that the Claimant has had a number of on-the-job injuries.

In summary, the Claimant's record shows that he is not an employee who takes his job responsibilities seriously. Given the facts in this case, the Board has no alternative but to deny the claim.

AWARD

Claim denied.

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ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Dated at Chicago, Illinois, this 8th day of October 1998.