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Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 6409
Docket No. 6252
2-KCS-EW-'72

The Second Division consisted of the regular members and in addition Referee Irwin M. Lieberman when award was rendered.

Parties to Dispute: { System Federation No. 3, Railway Employees'
{ Department, A. F. of L. - C. I. O.
{ (Electrical Workers)
{
{ The Kansas City Southern Railway Company

Dispute: Claim of Employees:

1. That the Kansas City Southern Railroad Company violated the rules of the controlling agreement of April 1, 1945, when they furloughed Richard Lee Zortz after completing his apprenticeship, and upgraded apprentice Eric Post to an Electrician without an upgrading agreement, and refusing to call Richard Lee Zortz, a qualified electrician from the furloughed list.
2. That accordingly, the Kansas City Southern Railroad Company be ordered to compensate Electrician Richard Lee Zortz in the amount of eight (8) hours at the pro rata rate for January 15, 1971 and eight (8) hours at the pro rata rate for each and every day thereafter until the violation has been corrected, plus 6% interest compounded annually on the anniversary date of the claim.

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.

Claimant had been employed as an Electrician Apprentice at Pittsburgh, Kansas in the Diesel Shop of the Carrier until completion of his four year apprenticeship, on June 11, 1969. On that date he was released by the Carrier. On July 18, 1970 the Carrier temporarily upgraded Electrician Apprentice Post who had been employed on February 7, 1968 and who had not completed his apprenticeship training.

The Organization contends that Claimant was deprived of his rights under the Agreement when he was not recalled on July 18, 1970. The Carrier states that Claimant was terminated upon completion of his apprenticeship and therefore had no rights, while the Organization states that he was merely furloughed and " ... when

it was found they needed an additional electrician mechanic, it would only be reasonable to recall the Claimant who had completed his apprenticeship training..." Rule 28 (k) states:

"(k) If an apprentice is retained in the service upon completing his apprenticeship, his seniority rights as a mechanic will date from the time of completion of apprenticeship."

The record contains evidence of the efforts of the Organization to modify this Rule in 1963 and 1965 to allow apprentices to establish seniority upon completion of their apprenticeships. No evidence has been presented showing Claimant's name had been included on any seniority rosters or furlough lists issued subsequent to June 11, 1969.

The language of Rule 28 (k) is clear and unambiguous; this Board is not empowered to re-write the Rules. We find that Claimant was not an employee subsequent to June 11, 1969.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: E. A. Killean
Executive Secretary

Dated at Chicago, Illinois, this 21st day of November, 1972.