

The Second Division consisted of the regular members and in addition Referee Robert M. O'Brien when award was rendered.

Parties to Dispute: (System Federation No. 41, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Carmen)
(
(The Chesapeake and Ohio Railway Company
((Pere Marquette District)

Dispute: Claim of Employees:

1. That the service rights of Tentative Carman Richard A. Skrzela and Rules of the Shop Craft Controlling Agreement was violated due to denying Mr. Skrzela reemployment rights on December 17, 1972 in violation of Rule 18.
2. That accordingly, Carrier be ordered to reemploy Mr. Skrzela as an employee of the Chesapeake and Ohio Railway, with seniority unimpaired, compensated for all time lost from Dec. 17, 1972 until claim is resolved, and made whole for all vacation, hospital, surgical, and life insurance benefits.

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 held a regular assignment on Carrier's repair track when on August 22, 1969 he was given a leave of absence to enter Military Service. However, he chose not to enter Military Service and he was classified as a Conscientious Objector. From September 14, 1970 to April 6, 1971 he performed civilian work at Butterworth Hospital in Grand Rapids, Michigan. Claimant thereafter sought reemployment with Carrier but was turned down since he had never entered Military Service and had, in fact, engaged in other

employment while he was absent on leave, in violation of Rule 18 of the applicable Agreement.

We are constrained to conclude from the record at hand that claimant has forfeited his seniority due to the application of Rule 18. Claimant obtained a leave of absence for the purpose of entering Military Service. However he never did enter the Military but rather worked at the Butterworth Hospital. Since he thus engaged in other employment while on leave when no special provision was made therefor between Carrier and the committee representing him he forfeited his seniority with the Carrier.

While the conclusion reached herein may appear to be harsh, it should be noted that Rule 18 is a self-executing rule providing for automatic loss of seniority when an employee absent on leave engages in other employment without making provisions therefor. And since the record unquestionably indicates that claimant has violated Rule 18 we are left no alternative than to apply the Rule as written and find that claimant has forfeited his seniority.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 5th day of December, 1974.