

NATIONAL RAILROAD ADJUSTMENT BOARD  
SECOND DIVISION

Award No. 10728  
Docket No. 9950  
2-SOU-CM-'86

The Second Division consisted of the regular members and in addition Referee Lamont E. Stallworth when award was rendered.

(Brotherhood Railway Carmen of the United States  
( and Canada

Parties to Dispute: (  
(Southern Railway System

Dispute: Claim of Employees:

1. That the Carrier violated the current Agreement when it failed to remove Carman D. R. Fine's name from the Bulls Gap Seniority Roster, after he had returned to work at his home point, Knoxville, Tennessee.

2. That the Carrier be ordered to remove Carman D. R. Fine's name from the Bulls Gap Seniority Roster in accordance with Paragraph (c), Section 2 of Rule 16.

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 were given due notice of hearing thereon.

The facts disclosed by this record are not in dispute. The controversy between the Claimant and Carrier grew out of application of Rule 16 and interpretation of the sections and paragraphs thereunder.

The Organization contends Section 1 (c), (j) and Section 2 (c) support its claim and argues that the Rule must be considered in its entirety.

The Carrier asserts that Claimant is in active service subject only to Section 1 of Rule 16; and, that Section 2 (a), (b), (c) is intended only for furloughed employes.

Contrary to Carrier's position that Section 2 is controlled by Paragraph (c), the Board finds that the whole Rule must be construed. To do otherwise would make Section (c) a general clause and give the contract a meaning that was not the intent of the parties (see Award 6948).


Under the provision of the contract in the instant case, Section 1 (j), an employe can retain seniority at his home point, and the last away from home point at which employed. In the Board's opinion, Claimant has seniority at both locations.

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 19th day of February 1986.