

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

(Brotherhood Railway Carmen of the United States
(and Canada
Parties to Dispute: (
(Missouri-Kansas-Texas Railroad Company

Dispute: Claim of Employees

1. That the Missouri-Kansas-Texas Railroad Company violated the agreement between the Missouri-Kansas-Texas Railroad Company and the Brotherhood Railway Carmen of the United States and Canada, effective January 1, 1957, as amended, and the Railway Labor Act, as amended, when the Missouri-Kansas-Texas Railroad Company removed Carman T. G. Faries from his job at Houston, Texas on or about December 15, 1982.

2. That the Missouri-Kansas-Texas Railroad Company restore T. F. Faries' name to the Missouri-Kansas-Texas Seniority roster at Houston, Texas and that he be made whole for all time lost at the proper pro rata rate (eight (8) hours per day, five days per week) commencing with his last day of employment with the Missouri-Kansas-Texas in Houston, which was on or about December 15, 1982.

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 employees 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 evidence shows that the Claimant was furloughed on September 20, 1982, during a force reduction. Subsequently, he reported to Houston, Texas, to work as a Car Inspector. The grievance file discloses considerable dispute surrounding the circumstances of the Claimant accepting the Houston position, the tenure of this position, and seniority rights applicable to the Claimant.

The Board has thoroughly reviewed the Submissions of the parties and, while the Organization has made reasonable and strong points, we hold with the Carrier.

The record shows, as evidenced by the statements contained in the initial Claim of November 15, 1982, as well as other documents in the file, that the initial position the Claimant occupied at Houston was a temporary vacancy. While there well might have been some misunderstanding by the Claimant, the evidence shows that the Claimant accepted a position at Houston that, at the time, was not permanent. He never established seniority at Houston.

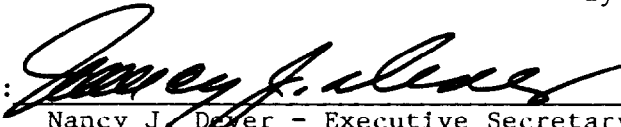
In summary, the Board notes the essential issues and the parties are the same as those involved by this Division when rendering Awards 11108 and 11109. Therefore, and after consideration of the Organization's vigorous dissent to those Awards, this Board again concludes that the resolution of disputes between the same parties concerning the same basic issues should not be disturbed by a subsequent holding unless it is found that the initial Award(s) were palpably in error. Predictability of Awards between the same parties tends to facilitate an orderly resolution of disputes. Accordingly, given the foregoing, the Claim is denied.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dwyer - Executive Secretary

Dated at Chicago, Illinois, this 26th day of August 1987.