

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

(T. V. Kirkley
PARTIES TO DISPUTE: (
(Seaboard Coast Line Railroad Company

STATEMENT OF CLAIM:

1. That the Carrier violated the current and controlling Firemen and Oilers Agreement when it improperly employed Laborer D. P. Penner and called back to work Laborer R. Benson who had less seniority than Laborer T. V. Kirkley.

2. That the Carrier continues to violate said Agreement in that Laborers Penner and Benson have continued to work while Laborer Kirkley remains in a furloughed status or on temporary job assignments.

3. That the Carrier continues to violate said Agreement in the Laborers Penner and Benson now have more seniority than Laborer Kirkley.

4. That Rules 14 and 23 and Appendix E specifically of the current and controlling Agreement have been violated by the Carrier.

5. That accordingly, the Carrier be ordered to restore Laborer Kirkley to his rightful seniority and to compensate him for all lost time commencing August 6, 1984.

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 waived right of appearance at hearing thereon.

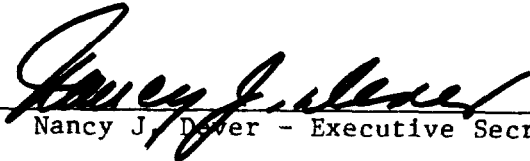
We have carefully studied and evaluated the record progressed to this Board on behalf on the Claimant. On the basis of this review, we find that the claim is procedurally defective. We find that the substance of the claim as it was presented on the property and the substance of the claim as it was presented to this Board is significantly different. Furthermore, it was not timely filed at the various levels of handling.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 13th day of April 1988.