

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: (
(Grand Trunk Western Railroad Company

STATEMENT OF CLAIM:

1. That the Grand Trunk Western Railroad Company violated the controlling agreement when Carman Rosco Smith was denied the right to return to service on February 18, 1985 and subsequent thereto.

2. That the Grand Trunk Western Railroad Company be ordered to compensate Carman Smith for all time lost from February 18, 1985 until his return to employment. Also, reimbursement for all losses sustained account of any loss he may incur in coverage under Health and Welfare and Life Insurance during time held out of service.

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.

The Claimant, while on duty on February 6, 1978, was injured and the tip of his fourth finger was amputated. He was then assigned light duty work, when it was available. However, on November 7, 1980, the Claimant was advised that: "Due to you not being able to work the light duty we have available for you because of the cold weather allegedly causing you to experience pain in your finger, there is no alternative other than to lay you off." Subsequently, the Claimant filed a Claim, essentially contending that he was improperly denied work as a Carman. His Claim was denied by the Second Division in its Award 10255, rendered February 6, 1985. That Award, while denying the Claim also stated, in part, that the "Board encourages the parties to continue their efforts to find suitable alternative work for this Claimant."

What essentially is at issue here is the Organization's contention that the Carrier has not complied with the intent of Second Division Award 10255. In so asserting, it states that the Claimant could perform the duties of "Leading Inspector to work as write-up man", a position that was awarded to a person junior to the Claimant.

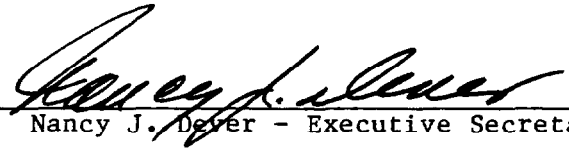
We basically find that the matter before us in this Claim involves the same essential issues considered by the Second Division when rendering Award 10255. The position which the Claimant seeks requires a fully qualified Carman. The Claimant's physical condition, as reflected by the record before us, would prevent him from performing this work. Accordingly, under all the circumstances, we must deny the Claim.

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 31st day of August 1988.