

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 11911
Docket No. 11783-I
90-2-89-2-101

The Second Division consisted of the regular members and in addition Referee John C. Fletcher when award was rendered.

PARTIES TO DISPUTE: (Samuel L. Pace
(Norfolk Southern Corporation (Southern Railway Company)

STATEMENT OF CLAIM:

Notification of intention to file ex parte submission involving claim of Carman S. L. Pace. That under an Agreement signed March 9, 1981, Carman S. L. Pace, Birmingham, Alabama, was granted full seniority. That accordingly, the Carrier be ordered to allow Carman Pace four (4) weeks vacation in 1988.

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.

On March 9, 1981, Claimant entered into an Agreement, negotiated by the Equal Employment Opportunity Commission, which restored him to his former position as a Carman with Carrier with full seniority. Claimant returned to service and fifteen months after the Agreement was made, June 4, 1982, requested that he be granted three weeks vacation, instead of the two weeks allowed, during calendar year 1982. This request was rejected on the basis that Claimant had only six qualifying years of service for vacation purposes. Carrier's rejection was accepted, without appeal.

On March 22, 1988, the instant Claim was originated. Claimant's Union requested that he be granted the four weeks vacation which goes with his seniority. This matter was rejected on the basis that Claimant lacked sufficient qualifying years of service for four weeks vacation.

We find the rejection to be correct. Notwithstanding that Claimant may have a certain seniority date, such date is not the basis on which eligibility or length of vacation entitlement is based. The December 17, 1941 National Vacation Agreement, as amended, requires that employees render compensated service of not less than 100 days during a calendar year to have that year counted as a vacation qualifying year. When an employee does not meet minimum compensated service requirements in a particular calendar year that year cannot be used in determining vacation length and eligibility.

From the facts before us it is obvious that Claimant did not work the required number of compensated days in five years. His payroll records indicate that he did not qualify for a vacation in 1976, working only 59 days; 1977, working only 39 days; and, 1978, 1979 and 1980 in which no days were worked. Accordingly, his request for four weeks vacation in 1988 is not supported by the Agreement because Claimant had an insufficient number of qualifying years.


The Claim will be denied.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Defer - Executive Secretary

Dated at Chicago, Illinois, this 1st day of August 1990.