

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

PARTIES TO DISPUTE: (Brotherhood Railway Carmen/Divison of TCU
(CSX Transportation, Inc.
(Baltimore and Ohio Railroad Company)

STATEMENT OF CLAIM:

1. That the Baltimore and Ohio Railroad Company violated the controlling agreement, specifically Rule 17, when they failed to remove Carman J. R. Rose from the seniority roster at Willard, Ohio.

2. That accordingly, Carman J. R. Rose did ask for a transfer under Rule 17 of the agreement and his name should be removed from seniority roster at Willard, Ohio.

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 Organization has herein protested the 1988 Seniority Roster listing of Mr. J. R. Rose. Evidence of record indicates that Mr. Rose utilized a Standard Form for Transfer dated October 5, 1987, when he elected to leave his Carman position at Willard, Ohio, for transfer to another seniority point. In completing the transfer of seniority, Mr. Rose was governed by Rule 17, which holds that:

"employees transferred from one point to another, with a view of accepting a permanent transfer, will, after thirty (30) days, lose their seniority at the point they left..."

The position of the Organization is that Mr. Rose forfeited his seniority when, after transfer, he chose not to return to Willard, Ohio, within the thirty days.

The Board has reviewed this contention in light of the Carrier's denial. Carrier argues that Mr. Rose was promoted to a supervisory position of Car Foreman under Rule 28 1/2 which states in part:

"(a) Mechanics..., when promoted..., do not sacrifice their seniority rights as mechanics as long as they remain in continuous service..."

In this case, the evidence that Mr. Rose transferred to Ottawa, Illinois, as a Carman is insufficient to sustain the Claim. It may well be that Mr. Rose utilized an improper form, but the Standard Form of Transfer is clearly marked indicating that Mr. Rose desired to be considered for position of "CAR FOREMAN" at Ottawa, Illinois. The Organization does not deny that he was assigned to a Car Foreman's position at that location. It has not been proven with substantial probative evidence that Rule 17 is applicable in the instant case as argued by the Organization.

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 20th day of February 1991.