

The Second Division consisted of the regular members and in addition Referee Joseph A. Sickles when award was rendered.

PARTIES TO DISPUTE: (Brotherhood Railway Carmen/Division of TCU
(Pacific Fruit Express Company

STATEMENT OF CLAIM:

1. That the Pacific Fruit Express Company violated the controlling agreement, particularly Rules 19, 20 and 21, when they failed to recall furloughed Carman Victor S. Carbone to service in 1985 or 1987, Roseville, California.

2. That accordingly, the Pacific Fruit Express Company be ordered to recall Carman Carbone to service with seniority rights, vacation rights, and all other benefits that are a condition of employment unimpaired with compensation for all time lost and reimbursement for all losses sustained account of loss of coverage under health and welfare and life insurance agreements during the time arbitrarily withheld from service and payment of all Railroad Retirement System payments as required as a condition of employment. Claimant Carbone should be made whole.

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 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.

This Claimant was furloughed from service in 1979, but was not recalled to service in either 1985 or 1987 when other employees in the craft were recalled. There is also mention made of a failure to recall the Claimant in 1989.

The record shows that this Claimant's name was contained in the 1979, 1980 and 1981 Seniority Rosters, but did not appear thereon in 1982 or at any time thereafter, which obviously accounts for the Carrier's failure to recall the Employee at any time subsequent to 1981.

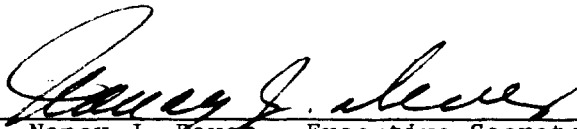
Rule 20(c) of the Agreement clearly requires that protests to the annual Seniority Roster be made within a sixty (60) day period and there is no showing under this record that the Claimant ever initiated any such action.

The Claimant waited much too long to seek the aid of his Organization to rectify the situation, and since the 1982 Seniority Roster went unprotested by this Employee, it is now too late to entertain his Claim. See, for example, Second Division Awards 7414, 11104 and 11171.

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 13th day of March 1991.