

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

PARTIES TO DISPUTE: (International Brotherhood of Electrical Workers  
(Burlington Northern Railroad Company

STATEMENT OF CLAIM:

1. That in violation of the current Agreement, Appendix 'E' in particular the Burlington Northern Railroad Company failed to remove exempt Electricians E. R. Liebenow and T. L. Lougee from the Rocky Mountain seniority roster subsequent to these exempt Electricians' refusal to continue to maintain the applicable seniority maintenance fee in accord with the agreement.

2. That accordingly the Burlington Northern Railroad Company should be instructed to remove the names of exempt Electricians E. R. Liebenow and T. L. Lougee from the Rocky Mountain District seniority roster.

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 January 26, 1981 the parties agreed that exempt individuals who had been promoted to Supervisory positions prior to that date could retain and continue to accrue seniority as long as they paid membership dues. Those who refrained from payment of dues ceased to accumulate seniority; but rather, they retained seniority only, or progressed one year forward each year thereafter.

Two exempt employees identified in this Claim were so advised, and they opted to pay membership dues. However, after six (6) years they both opted to discontinue payment.

The Organization argues that the option to pay (or not to pay) membership dues was a "one time" option and once these individuals revoked their original decisions, they forfeited seniority and Carrier must remove them from the seniority list.

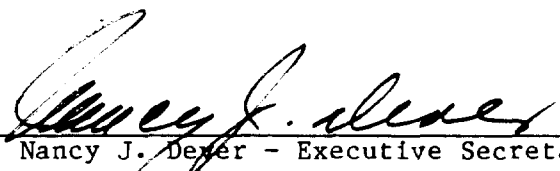
The Carrier resists this Claim on the ground that there is nothing in the Agreement that reasonably supports the Organization's conclusion. In addition, it points out an asserted inconsistency since those who paid dues for a period of time and then opted to cease payments, would be treated more harshly than those who never opted to make any payments, regardless of their relative length of service, since the ones who never paid would concededly continue to retain.

This Board can find nothing in the Agreement which purports to sustain the Organization's position in this case, and we are reluctant to remove an employee's seniority in the absence of specific language permitting, or requiring, that action.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest:   
Nancy J. Dexter - Executive Secretary

Dated at Chicago, Illinois, this 13th day of March 1991.