Form 1 NATIONAL RAILROAD ADJUSTMENT BOARD Award No. 12035
SECOND DIVISION Docket No. 11651
91-2-88-2-148

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

PARTIES TO DISPUTE: (International Brotherhood of Electrical Workers
(
(National Railroad Passenger Corporation (Amtrak)

STATEMENT OF CLAIM:

1. Grievance of Electrician H. E. Bryant, Beech Grove, Indiana, identified as National Railroad Passenger Corporation File No. CHG-IBEW-342 and IBEW-TC-595/H. E. Bryant.

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.

This case involves the proper placement of the Claimant on the seniority roster after the completion of his apprentice program. The Claimant is employed at Beech Grove, Indiana. He entered the Electrician Apprenticeship Program on June 11, 1984, and completed it on May 19, 1986, at which time he was assigned a seniority date of July 3, 1984.

In February 1987, the Claimant submitted a letter protesting the seniority date assigned him. He objected to the fact that partial days of work missed by him during his apprenticeship were totaled and then subtracted from his seniority date. The dispute centers around Article V of the joint Apprenticeship Agreement, which states in relevant part:

"Seniority

A. A regular apprentice indentured on or after the effective date of this Agreement shall, upon completion of his apprenticeship, be given a seniority date as a journeyman mechanic retroactive 732 working days from the date of such completion, but not prior to his date of indenture.

* * *

C. In counting back the 732 working days ...all normal working days at the shop in question which were available to be worked and actually worked (whether full days of work or not) plus his paid holidays and vacations with pay, shall be counted. Days not worked because of any reason shall not be counted."

The Board concludes that the language of Article V, especially when interpreted in conjunction with Article II, is somewhat ambiguous. The language of Article V states that all normal working days which were actually worked, whether full days of work or not, shall be counted. Here, the Carrier did not count as full days any days in which the Claimant missed any hours. Instead, the Carrier totaled the number of hours missed, determined how many days they comprised, and subtracted that number from the total number of days worked. The Carrier interpreted this language to mean that all days actually worked would be counted, but partial days would be counted as partial. In contrast, the Organization reads this language as permitting an apprentice to receive full credit for every day in which he worked either a full day or part of the day.

In interpreting an agreement this Board and other neutral bodies assume that the Parties intended every phrase to have meaning, and the Organization suggests that only by adopting its interpretation would the phrase regarding full or partial days have meaning. However, the phrase could have been inserted to insure that an apprentice received some credit for working a partial day, and that credit would be apportioned according to the amount of time he worked.

The strongest support for the Carrier's position is found in Article II of the Agreement, which states: "A regular apprentice shall serve six periods of 122 eight hour days." This section strongly suggests that the Parties had in mind full eight-hour days when they referred to the 732 days later in the Agreement in Article V.

The Carrier has argued that if the Board adopts the interpretation offered by the Organization, an apprentice could work far less than the 732 days required, simply by regularly missing part of a day every week. This would cause a direct contradiction to the result in Article II, and it does not seem likely that the Parties would have intended the language of Article V to be in direct contradiction to the language of Article II.

Although the Board believes that the Carrier's interpretation of the language of Article V makes it most consistent with Article II, any ambiguity can be resolved by reference to past practice. Although the Organization asserts that the Carrier has not proven that this method has been applied to determine hundreds of employees' seniority dates, neither does the Organization directly refute this contention. Therefore, the Board concludes that it is an accurate reflection of the way the Parties have interpreted the language before us.

Even if a new system would not cause a total overhaul of the seniority rosters, as the Carrier suggests, the effect of imposing a new system after eleven years of a former system could cause considerable unrest and loss of morale among the workforce. Such a change is not warranted, given the language of the Agreement and the evidence concerning the way the Parties have interpreted that language.

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 1st day of May 1991.