

The Second Division consisted of the regular members and in addition Referee Eckehard Muessig when award was rendered.

PARTIES TO DISPUTE: (Brotherhood Railway Carmen/Division of TCU
(CSX Transportation, Inc. (former Chesapeake & Ohio
Railway Company)

STATEMENT OF CLAIM:

1. That the Chesapeake & Ohio Railroad Company (CSX Transportation, Inc.) (hereinafter "carrier") violated the provisions of Rule 27 of the Shop Crafts Agreement between Transportation Communications International Union - Carmen's Division and the Chesapeake & Ohio Railroad Company (CSX Transportation, Inc.) (revised June 1, 1969) and the service rights of Carman Helper Terry McCarty (hereinafter "claimant") when the claimant was not called for service as a Painter Helper while arrangements were made to recall other Carmen Helpers at Raceland Car Shop on January 5, 1987.

2. That, accordingly, the claimant is entitled to be compensated for all days lost as a result of a junior employe working beginning January 5, 1987.

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.

In this case (which involves the same set of circumstances as in Second Division Award 12057), the Claimant asserts that the Carrier violated Rule 27 because he was not called for service as a Painter Helper while he was furloughed as a Carman Helper.

The record shows that in January 1987, after the Carrier had recalled all available Painters and Painter Helpers, it still had a need for additional employees. At that point, the Carrier had the right to hire additional Painter Helpers on the open market. However, it agreed with the Organization's Local Chairman to offer Painter Helper positions to furloughed Carman Helpers in the same relative order as they stood on the Carman Helper seniority roster. If a Carman Helper could not be contacted, it was agreed that the next furloughed Carman Helper would be contacted until the requirement was met. The evidence shows that the Claimant was offered work as a Painter Helper to report for duty on January 6, 1987, second shift. However, he did not report for duty.

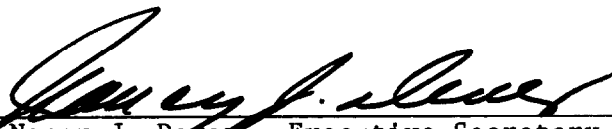
Clearly, there is no violation of Rule 27 because this Rule specifies that Painter Helpers and Carman Helpers are two separate seniority subdivisions of the Carman's craft. Therefore, Carman Helpers have no contractual right to be recalled for Painter Helper positions. Conversely, Painter Helpers have no contractual right to be recalled for Carman Helper positions.

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 23rd day of October 1991.