

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

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

STATEMENT OF CLAIM:

1. That the Chesapeake and Ohio Railroad Company (CSX Transportation, Inc) (hereinafter "carrier") violated the provisions of June 1, 1979 Upgrading of Helpers and Apprenticeship Agreement and the provisions of Rule 31 of the Shop Crafts Agreement and the service rights of Painters Kenneth R. Kelly, Joel Carter, Keith Estep, Clyde W. Wheeler, Kevin M. Bailey, Douglas K. Stevens, Dwight Wells, Gary Baker, Steven D. Rice, Larry Childers, Steven C. McClellan, Larry D. Massie, Kenneth Howard, Paul G. Hollis, J. H. Borders, Jr., Craig S. Chambers and Ted Blankenship (hereinafter "claimants") when on January 3, 1989 the carrier upgraded Carman Helpers and Painter Helpers to Carman Tentative and Painter Tentative positions, respectfully, without first obtaining an understanding between the proper Labor Relations Officer and the General Chairman of the Craft in accordance with the aforementioned Agreement.

2. Upon the posting of the new seniority roster, the claimants filed official protest to the seniority dates of the upgraded helpers and requested that the seniority roster be corrected.

3. That, accordingly, the carrier should be instructed to correct the seniority roster and place the upgraded helpers in their proper seniority standing per their proper seniority date of January 3, 1989.

FINDINGS:

The Second Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee 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.

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Award No. 12430
Docket No. 12239
92-2-91-2-28

The instant dispute, in part, arises out of facts similar to those facts contained in Award 12429. The findings in Award 12429, including the interpretation and application of Article II, Section 3, Paragraphs (b), (c) and (d) are incorporated herein and made a part of this decision. It should be noted that the Board found in Award 12429 that the Carrier did not violate Article II, Section 3, Paragraphs (b), (c) and (d).

An additional claim has been filed by the Organization. The Organization protests the seniority dates of the upgraded Helpers and requests a correction of the seniority roster so as to "place the upgraded Helpers in their proper seniority standing per their seniority day of January 3, 1989." After reviewing the record, this Board concludes that seniority is to be established pursuant to the July 1, 1988 "Memorandum of Understanding" between the parties.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dwyer - Executive Secretary

Dated at Chicago, Illinois, this 23rd day of September 1992.