

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Award No. 13698

Docket No. 13562

03-2-00-2-40

The Second Division consisted of the regular members and in addition Referee Edwin H. Benn when award was rendered.

**(Brotherhood of Railway Carmen Division
(Transportation Communications International Union
PARTIES TO DISPUTE: (
(Springfield Terminal Railway Company**

STATEMENT OF CLAIM:

“Claim of the Committee of the Union that:

- 1. The Springfield Terminal Railway Company violated the terms of our current agreement, in particular Rules 8 and 9 when they arbitrarily placed new and different designations to the 1999 Carman System Seniority Roster which were not negotiated nor agreed to in the collective agreement, signed on December 4, 1995.**
- 2. That accordingly, the Springfield Terminal Railway Company be ordered to reinstate the System Seniority Roster, by removing the designations and restrictions, to reflect no changes other than those agreed to by both parties.”**

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 employee 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 were given due notice of hearing thereon.

Upon negotiation of the 1995 Agreement, the Carrier issued the Carman System Seniority Roster. In addition to the prior rights designations of "B" (for Boston and Maine) and "M" (for Maine Central), that roster identified Carman with painting experience in addition to Carman experience with an asterisk (*). The "current status" of the employees identified with an asterisk is that of "Carman." That same format was followed for the 1996, 1997 and 1998 rosters.

Aside from listing "B" and "M" for prior rights, the 1999 roster showed designations of an asterisk ("*") for "Prior Rights Painter"; a pound sign ("#") for "Carman & Painter; and a double asterisk ("**") for "Painter." This claim followed with the Organization protesting the different designations from the prior rosters. The Organization asserted that "#Carman & Painter" and "**Painter" should be removed from the roster.

The relevant Rules provide:

"Rule 8. Seniority

8.1 Employees' seniority will consist of Prior Rights Seniority and System Seniority.

(a) Prior Rights Seniority

Employees who hold prior rights to Maine Central Railroad or Boston and Maine Corporation work on the effective date of this Agreement will retain such rights.

(b) System Seniority Rights

Employees will have rights to work throughout the Springfield Terminal Railway Company System. System seniority will be based upon Carman seniority date.

Rule 9. Seniority Roster

- 9.1 A Single Roster of employees will be created. Employees will be listed based upon Carman seniority date as that date appears on the prior rights roster, if applicable, or the system roster in the case of non-prior rights employees. Entered service date will also be shown. Prior rights will be designated as follows:**

B = Boston and Maine Corporation Prior Rights

M = Maine Central Railroad Prior Rights

Multiple employees entering the craft on the same date with the same standing with the Carrier will be placed on the roster in alphabetical order."

This is a contract dispute. Therefore, the burden is on the Organization to demonstrate a violation of the relevant Rules with respect to the 1999 roster. The Organization has not met that burden.

Rules 8.1 and 9.1 require that prior rights with the Boston and Main or Maine Central be designated with a "B" and "M," respectively. The 1999 roster contains those designations. The rosters prior to 1999 designated the "current status" of the employees including that of "Carman." The 1999 roster does the same. The rosters prior to 1999 designated that certain employees were Painters. The 1999 roster does the same. As the Carrier points out, the 1999 roster gives more information by further differentiating between "Prior Rights Painter" (designated with a single asterisk (*)) and "Painter" (designated with a double asterisk ()). And, there is another designation for "Carman & Painter" (designated with a "#"). But for our purposes and as the Carrier points out, in and of themselves, these more detailed designations in the 1999 roster have not been shown by the Organization in this case to limit the ability of any employee to exercise their seniority. Compare, Second Division Awards 13699, 13700 and 13701, where displacement rights of employees designated on the 1999 roster as "Painter" are specifically addressed. Further, and most importantly, the cited Rules do not prohibit the Carrier from noting the more detailed information - information which was similarly present in the rosters prior to 1999.**

Based on the above, this claim shall be denied for lack of Rule support.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Dated at Chicago, Illinois, this 31st day of January, 2003.