

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Award No. 13941
Docket No. 13831
NRAB-00002-070021
(07-2-21)

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

(Brotherhood Railway Carmen Division (BRCD)
(Transportation-Communications International Union

PARTIES TO DISPUTE: (

(Delaware and Hudson Railway Company

STATEMENT OF CLAIM:

"Claim of the Employees:

- "1. That the Delaware and Hudson Railway Company violated the terms of the National Agreement, in particular Article III (Rate Progression-Section 2), when they failed to properly compensate Carman Stephen Barber at his full rate of pay as he is a former Carman from the CSXT Corporation.
- "2. That, accordingly, the Delaware and Hudson Railway Company be required to compensate Carman Stephen Barber his full rate of pay from July 21, 2005 to July 12, 2006 (he resigned his position as of this date) and bring him up to 100%. (He was being paid at 90% of the going rate of pay)."

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.

On March 3, 2006 the Organization filed this claim. It alleges the Claimant should have been paid 100 % of the journeyman's rate of pay instead of 90 %.

It argues the Claimant was placed on the Carrier's Seniority roster on July 21, 2005 and should be paid at the full rate of pay.

The Carrier argues it correctly applied Rule 37 which reads as follows:

“All helpers, upgraded mechanics, apprentices and student mechanics entering service on or after February 1, 1988 shall be paid as follows for all service performed within the first twenty-four (24) calendar months of service:

(a) For the first twelve (12) calendar months of employment, new employees shall be paid 90% of the applicable rates of pay (including COLA) for the class and craft in which service is rendered.

(b) For the second twelve (12) calendar months of employment, new employees shall be paid 95% of the applicable rates of pay (including COLA) for the class and craft in which service is rendered.

(c) Any calendar month in which an employee does not render compensated service due to furlough, voluntary absence, suspension, or dismissal shall not count toward completion of twenty-four (24) month period.

(d) During any portion of the twenty-four (24) month period of employment in which any employee serves as an upgraded mechanic he shall be paid at the appropriate percentage of the applicable mechanic rate.”

A close review of the Rules shows that journeymen mechanics are not included as employees that will be paid at the 90 % rate.

Claimant was hired as a mechanic having previously worked as a Carman for a Class I Railroad.

The Organization has met its burden by showing the Carrier violated the Agreement.

AWARD

Claim sustained.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

**NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division**

Dated at Chicago, Illinois, this 27th day of March 2008.