

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

THE BALTIMORE AND OHIO RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

(1) The Carrier violated the Agreement and ignored the seniority rights of Trackman James O. Whisner when it assigned the position of tie tamper operator as advertised in Bulletin No. 45, dated May 24, 1956, to an applicant who was junior to Trackman James O. Whisner.

(2) The Carrier likewise violated the very basic and fundamental concepts and principles of the seniority rules of the Agreement when it selected, instructed and required Trackman W. A. House, with seniority from April 3, 1947, instead of Trackman James O. Whisner, with seniority from March 9, 1926, to learn and become acquainted with operation of a tie tamper while under pay and serving as a Trackman at 'which time no employee on the division was qualified to operate this machine'.

(3) Claimant James O. Whisner be assigned to the position of tie tamper operator.

(4) Claimant James O. Whisner be paid the difference between what he received at the trackman's rate and what he should have received at the tie tamper operator's rate for each day he has been denied the right and opportunity to fill the position of tie tamper operator.

(5) Claimant be given seniority as a tie tamper operator as of June 15, 1956, the date position of tie tamper operator was awarded by Bulletin No. 49, and that he shall be considered senior in such class to Mr. Willard A. House.

FINDINGS: The Third Division of the Adjustment Board finds:

That the dispute was certified to the Third Division of the Adjustment Board jointly by the parties;

That Carrier and Employes involved in this dispute are respectively carrier and employes within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein;

That hearing thereon has been held and concluded. Under date of February 20, 1959, the parties jointly advised the Secretary of the Third Division of their desire to withdraw this case from further consideration by the Division, which request is hereby granted.

AWARD

Case dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: A. Ivan Tummon
Executive Secretary

Dated at Chicago, Illinois, this 26th day of February, 1959.