NATIONAL RAILROAD ADJUSTMENT BOARD

Award Number 22784

THIRD DIVISION

Docket Number SG-22509

James F. Scearce, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(Western Maryland Railway Company

STATEMENT OF CLAIM: "Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Western Maryland Railway Company:

(a) The Carrier violated the Signalmen's Agreement, particularly Rule 36, when it did not omit Mr. D. L. Horning's name in the Foreman's classification on the 1977 seniority roster.

(b) Mr. D. L. Horning's name be omitted from the 1977 seniority roster in the foreman's classification."

/Carrier file: 2-SG-512 167-Z (WM)/

OPINION OF BOARD: As a result of the abandonment of certain trackage, the Carrier discontinued certain positions including one of Signal Inspector. The incumbent of such position opted not to displace to the other available Signal Inspector position, located some 145 miles distant, occupied by a less-senior employe. Instead, he displaced to a Signal Maintainer position, also occupied by a less-senior employe. In terms of seniority classes, between the Inspector and Maintainer position is that of Foreman. While a high senior employe, the former Signal Inspector lacked the ability to displace the Foreman position due to the incumbent of that position being superior to him in necessary seniority. The Organization herein demands that the former Signal Inspector be denied a right to hold seniority on the For-n's roster contending application of Rule 36 - Voluntary Demotion:

> "Except as otherwise provided in Rule 30 (d), an employee who voluntarily demotes himself to a position in a lower seniority class will forfeit all seniority rights in seniority classes higher than the one to which he so transfers."

We find no support for such a claim, There is no showing that the former Signal Inspector voluntarily demoted himself; instead, he exercised his seniority against the next lower position at which it would

hold. In so doing, he did forego rights to the Signal Inspector position -- in which he could have displaced a less-senior employe -- but he had no opportunity to such an option in the Foreman classification. Therefore, we find no basis to deny his right to retention on the Foreman seniority roster.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

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

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

That the claim be dismissed.

A W A R D

Claim is dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A.W. Paulos
Executive Secretary

Dated at Chicago, Illinois, this 14th day of March 1980.