

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25506
Docket Number SG-25182

Robert W. McAllister, Referee

(Brotherhood of Railroad Signalmen

PARTIES TO DISPUTE: (

(The Chesapeake and Ohio Railway Company

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Chesapeake & Ohio Railway company.

(a) Carrier violated the parties' Signal Agreement, as amended, particularly Seniority Roster Rule 39, when the 1982 Seniority Roster for the Huntington Seniority District showed Michael Charles Guthrie, C&O ID No. 2611091, as having seniority on that district when in fact Guthrie is working for the Baltimore & Ohio Railroad Company (B&O).

(b) Since Michael Charles Guthrie is not employed on the Chesapeake & Ohio Railway (C&O) he has forfeited all seniority previously held on the C&O Huntington Seniority District pursuant to Promotion to Official Position Rule 44. As a result, Guthrie's name and seniority date should be removed from the 1982 and future Seniority Rosters issued for the C&O Huntington Seniority District. [Carrier file: SC-659, S-2-3, S-2-1. General Chairman file: 82-8-CD (1)]

OPINION OF BOARD: The claim before the Board asserts that Michael Guthrie is not employed by the Carrier and has, accordingly, forfeited all rights to seniority held on the Huntington Seniority District as per Rule 44, Promotions to Official Positions, as follows:

'Employees promoted to official or supervisory positions with the Railway Company and employees accepting official positions with the Brotherhood of Railroad Signalmen shall retain and continue to accumulate seniority rights. They may exercise displacement rights in the order set forth by Rule 41 in event their positions are abolished or they are demoted, provided displacement is made within thirty days of abolishment of position or demotion unless prevented by sickness or injury, or leave of absence is secured under Rule 45.'

The Carrier responds that Guthrie has at all times since his promotion in January, 1977, been a Chesapeake and Ohio employe, worked under the direction of the Chesapeake and Ohio, and paid by the Chesapeake and Ohio. The Organization contends Guthrie was, in July of 1981, promoted and assigned to a supervisory position on the Baltimore and Ohio Railroad at Dayton, Ohio. Additionally, the Organization argues the language of Rule 44 and reference to the Railway Company means the Chesapeake and Ohio Railway Company. Accordingly, as an employe of the Baltimore and Ohio, Guthrie has no contractual basis for retaining seniority. A collateral issue was also raised by the Organization regarding a claimed Carrier proposal in July of 1980 which would have deleted reference to "Railway Company" and substituted 'The Chessie System or the Family Lines System.. The record discloses that the proposal was actually in response to the Organization's Section 6 Notice of January 2, 1981, and was discussed in conference on January 6, 1982.

Notwithstanding the above, **this** Board finds the record before us fails to establish **the Organization's** basic contention, which is that Guthrie was not an **employee** of the Chesapeake and Ohio, but was an **employee** of the Baltimore and Ohio. The numerous assertions made in the on-the-property handling to that effect are not backed up with substantial probative evidence. We will, therefore, decline this claim.

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 **Employees** involved in this dispute are respectively Carrier and **Employees** 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; and

That the Agreement was **not** violated.

A W A R D

Claim denied.

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

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 13th day of June 1985.

RECORDED