

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25797
Docket Number MW-25846

Paul C. Carter, Referee

(Brotherhood of Maintenance of Way Employees
PARTIES TO DISPUTE: (
(The Chesapeake & Ohio Railway Company (Northern Region)

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

(1) The Carrier violated the Agreement when it improperly closed the service record of Mr. C. Harris (System File MG-4012/C-TC-1633).

(2) Mr. C. Harris shall be returned to service with seniority and all other rights unimpaired and he shall be compensated for all wage loss suffered beginning April 5, 1983."

OPINION OF BOARD: The record in this case as it was made in the handling on the property does not in and of itself support the Organization's Claim. Further, the record does not bear evidence that Claimant made a sincere attempt to comply with the requirements of the Agreement to protect his seniority by making proper arrangements to be excused from physically reporting on the tenth day. On the other hand, the Carrier has offered no evidence to show that past application of the rule requires that an employee physically report and commence work on or before the starting time of the tenth day. Accordingly, we will award that Claimant's name be restored to the seniority roster with his seniority unimpaired, but without compensation for any time that may have been lost.

Upon notice of restoration, Claimant shall comply with all applicable Agreement rules pertaining to retention of seniority.

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 violated.

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Claim sustained in accordance with the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 12th day of December 1985.

