

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26099

Docket Number MW-26212

John W. Gaines, Referee

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

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

(1) The Carrier violated the Agreement when it removed the name of Mr. E. B. Bess, Jr. from all seniority rosters within a letter dated December 9, 1983 (System File C-M-2045/ MG-4366).

(2) The December 9, 1983 letter addressed to Mr. Bess shall be rescinded, Mr. Bess shall have his seniority restored with the seniority dates he held prior to the violation referred to in Part (1) hereof and he shall be compensated for all wage loss suffered as a consequence of said violation."

OPINION OF BOARD: The question to be resolved here is whether Claimant filed proper notice with the Carrier to protect his seniority at the time of his furlough.

Rule 5(a) requires that employees protecting their seniority must file with "the Manager-Engineering ..." a Recall Request with their name and address "in writing not later than ten days from date they are cut off." Claimant's position was cut off on August 5, 1983.

No substantial evidence appears of record that Claimant filed the required notification in writing following his cut off. Carrier denies receipt of notice.

We find the Claim is not supported by the record before us, and is therefore without merit. It was proper for Carrier to remove the furloughed Claimant from the Seniority Roster as it did, under authority of Rule 5(a).

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 Employee involved in this dispute are respectively Carrier and Employee 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.

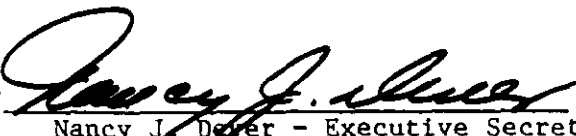
Award Number 26099
Docket Number MW-26212

Page 2

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: 
Nancy J. Dwyer - Executive Secretary

Dated at Chicago, Illinois, this 22nd day of August 1986.