

The Third Division consisted of the regular members and in addition Referee Rodney E. Dennis when award was rendered.

PARTIES TO DISPUTE: ((Brotherhood of Maintenance of Way Employees
(National Railroad Passenger Corporation - (Amtrak)
Northeast Corridor

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

(1) The Agreement was violated when the Carrier improperly terminated the seniority of Trackman L. Chappell (System File NEC-BMWE-SD-1408).

(2) The claimant shall be reinstated with seniority and all other rights unimpaired."

FINDINGS:

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

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employees within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

Claimant entered Carrier's service on July 5, 1983, and was employed as a Trackman.

On June 24, 1985, Claimant took a return-to-work physical and was found fit for duty on that date by Carrier's physician. In accordance with the applicable Rules of the Agreement, Rules 22 and 18, Claimant had ten days to make a displacement or file furlough papers. Claimant did neither and did not communicate with Carrier during this period of time. Carrier had no information about his intentions until August 22, 1985, when the District Chairman requested a conference.

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90-3-87-3-44

Rules 18 and 22 of the Agreement were negotiated by the parties and employees are bound by these provisions of the Agreement. Claimant failed to comply with the applicable Rules and, pursuant to the Agreement, forfeited his seniority.

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 28th day of February 1990.