

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 32956  
Docket No. MW-33765  
98-3-97-3-218**

The Third Division consisted of the regular members and in addition Referee Robert Perkovich when award was rendered.

**(Brotherhood of Maintenance of Way Employees  
PARTIES TO DISPUTE: (  
(CSX Transportation, Inc. (formerly The Baltimore  
( and Ohio Railroad Company)**

**STATEMENT OF CLAIM:**

**"Claim of the System Committee of the Brotherhood that:**

- (1) The Agreement was violated when the Carrier improperly removed the name of Mr. J. L. Bassett from all seniority rosters on the Baltimore West End Seniority District effective January 16, 1996 [System File B-G-9737/12 (96-373) BOR].**
- (2) As a consequence of the aforesaid violation, Claimant J. L. Bassett's name shall be placed back on all the seniority rosters his name was improperly removed from."**

**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 employee 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 were given due notice of hearing thereon.

Claimant established Trackman seniority on the Monongah East District on May 12, 1977 and subsequently established seniority in several other classifications at various times. He thereafter established seniority on June 3, 1991 on the Baltimore West End District. On a date not established in the record Claimant was furloughed and established seniority on the Baltimore East End District and between January 1993 and August 1994 Claimant worked on a System Production Gang. On January 16, 1996 Carrier removed Claimant's name from all seniority rosters on the Baltimore West End District under the 365-day Rule that provides that any employee who is "... *furloughed for 365 days* will be terminated. . . ."

The record clearly reflects that although the Claimant was furloughed from the West End District he worked on the East End District thereafter and before he had been furloughed for 365 days. Thus, the Claimant was not, as required by the Rule, "furloughed" for the requisite period of time. Accordingly, removal from all seniority rosters was inappropriate.

The record is equally clear however that Claimant suffered no monetary loss as a result of the Carrier's action. Thus, no monetary award is in order.

Accordingly, it is the finding of the Board that the claim should be sustained and that the Claimant shall be restored all seniority as though he had not been removed from seniority rosters as alleged in the claim.

#### **AWARD**

Claim sustained in accordance with the Findings.

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**ORDER**

**This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.**

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

**Dated at Chicago, Illinois, this 23rd day of November 1998.**