

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 36314
Docket No. TD-36434
02-3-00-3-680**

The Third Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

**(American Train Dispatchers Department
(Brotherhood of Locomotive Engineers**

PARTIES TO DISPUTE: (

(Burlington Northern Santa Fe Railway

STATEMENT OF CLAIM:

“A. On February 24, 2000 Mr. P. R. Segura was charged by the Organization with violation of the Seniority Retention Agreement.

B. The Carrier must terminate Mr. Segura’s seniority under the agreement with the Organization.”

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.

The employee is a Chief Dispatcher. By Memorandum of Agreement dated May 3, 1993, the parties agreed that this position is subject to Article IV, Seniority Retention, of the February 26, 1987 National Mediation Agreement. Article IV, Section 2 provides that an employee promoted to certain positions subsequent to the Memorandum of Agreement may elect to accumulate seniority within class or craft

represented by the Organization. This carries the condition that the employee pays a continuing fee no greater than current membership dues. In the event of a dispute concerning such payment, Article IV, Section 2 provides the employee with an opportunity for a Hearing.

This dispute has its origin in a letter dated February 8, 2000 to the employee from the Organization's Secretary-Treasurer indicating that he was in arrears in the payment of his membership dues and set a time period for correcting this matter. Subsequently, the Carrier was advised by the Organization that the employee had "failed to comply" with Article IV, Section 2 and the employee was so advised by the Carrier. A Hearing, as requested by the employee, was conducted on April 14, 2000 and the Carrier advised the employee on April 20, 2000 that it found no proper basis for removal of the employee from the seniority roster. It was this decision which gave rise to the Organization's claim herein.

All issues and contentions raised in this matter have been reviewed. It would serve no purpose to detail all of that material here because the parties are well aware of their positions and it does not alter the basic issue raised. While the Board understands the Organization's several arguments, the Board must limit its consideration to the specific matter submitted to it. In that regard, the Carrier's action, as detailed in this record, was not in violation of Article IV, Section 2.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an Award favorable to the Claimant(s) not be made.

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

Dated at Chicago, Illinois, this 13th day of November 2002.