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**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 37375
Docket No. SG-37496
05-3-02-3-580**

The Third Division consisted of the regular members and in addition Referee Peter R. Meyers when award was rendered.

PARTIES TO DISPUTE: (
(Brotherhood of Railroad Signalmen
(CSX Transportation, Inc. (former Baltimore and
(Ohio Railroad Company)

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the CSX Transportation, Inc. (CSXT):

Grievance on behalf of R. W. Mangold, Jr., for reinstatement to the B&O Signal Seniority Roster, account Carrier violated the current Signalmen’s Agreement, particularly Rule 32, when it removed the Claimant from the Seniority Roster after he was furloughed on June 19, 2001. Carrier’s File No. 15(01-177). General Chairman’s File No. RMW#32. BRS File Case No. 12199-B&O.”

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 Organization filed the instant claim on behalf of Claimant R. W. Mangold Jr., alleging that the Carrier violated the Agreement when it removed the Claimant's name from the Seniority Roster after he was furloughed on June 19, 2001.

The Organization initially contends that at the time he was furloughed, the Claimant was experiencing pressing family hardships due to illness, and he neglected to file his address with the Signal Supervisor and the Local Chairman in accordance with Rule 32(a). The Organization argues that the Claimant is a valued employee, and there is no benefit to the Carrier in losing a trained employee.

The Carrier initially contends that the Claimant did not file his current address with the Carrier or the Organization subsequent to his furlough on June 19, 2001. By operation of the self-executing provisions of Rule 32, the Claimant thereby forfeited all seniority rights. The Carrier emphasizes that the Organization never argued that the Carrier was operating outside the boundaries of Rule 32. Instead, the Organization simply asserted that there were mitigating circumstances that caused the Claimant to be remiss in filing his current address as required by the Rule, and that the Claimant is a valued employee whose loss does not benefit the Carrier.

The Carrier points out that the evidence clearly reveals that the Claimant waited from June 19 until August 5, 2001 before making any effort to comply with the Agreement. The Claimant was responsible for protecting his B&O seniority under Rule 32(a) by filing his current address with the Carrier and the Organization within ten days of assuming furlough status. The Carrier emphasizes that if an employee fails to file his address as required by the Rule, the forfeiture of seniority is automatic. Rule 32(a) does not contain any exceptions. The Carrier maintains that many prior Awards have upheld automatic forfeiture of seniority when an employee has failed to take action to protect his seniority, and that the Board has limited authority to alter such self-executing provisions. The Carrier argues that the Claimant did not comply with the provisions of Rule 32(a) and this Rule is self-executing as to the forfeiture of his seniority rights.

The Carrier also asserts that although it was not required to do so, it did review the mitigating circumstances touted by the Organization. The Carrier determined that the Claimant's issues were insufficient to relieve him from his contractual obligation to notify the Carrier of his address upon being furloughed. The Carrier therefore contends that there are no special considerations for the Board to entertain that were overlooked by the Carrier.

As for the Organization's argument that the Claimant is a valued employee whose loss does not benefit the Carrier, the Carrier emphasizes that the Claimant retained other seniority rights on the RF&P Railroad, which is another CSXT property. The Claimant therefore continues to be an employee of the Carrier. The Carrier maintains, however, that the Board nevertheless is restricted from dealing in matters of equity. The Claimant forfeited his seniority by his own lack of action, and the Carrier correctly determined that the Claimant had forfeited his B&O seniority rights.

The Board reviewed the record in this case and finds that the Organization failed to meet its burden of proof that the Carrier violated the Agreement when it removed the Claimant from the seniority roster after he was furloughed on June 19, 2001. The Rules are clear that employees must list a current address with the Carrier. The Claimant failed to express his desire to retain his seniority subsequent to his furlough status on June 19, 2001, when he did not file his address with the Signal Supervisor and the Local Chairman within ten days of being furloughed.

Rule 32(a) states in part:

"When an employee, laid off by reason of force reduction or assuming the status of a furloughed employee, desires to retain his seniority rights he will file his address with the Signal Supervisor and Local Chairman within ten (10) days and renew same only when changing his address. . . . Failing to comply with any of these provisions, an employee will forfeit all seniority rights and his name will be dropped from the roster."

Rule 32(a) is a self-executing Rule which has been upheld by the Board on numerous occasions. The Board recognizes that the Claimant had a number of

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problems in his family which made life difficult for him. However, the Rule is self-executing and the Claimant forfeited his seniority. The Carrier properly let him know that his seniority was forfeited and, therefore, the claim must be denied.

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 24th day of February 2005.