

NATIONAL RAILROAD ADJUSTMENT BOARD**THIRD DIVISION**

Gene T. Ritter, Referee

PARTIES TO DISPUTE:**BROTHERHOOD OF RAILWAY, AIRLINE AND STEAMSHIP
CLERKS, FREIGHT HANDLERS, EXPRESS AND
STATION EMPLOYES****THE CHESAPEAKE AND OHIO RAILWAY COMPANY
(Chesapeake District)****STATEMENT OF CLAIM:** Claim of the System Committee of the Brotherhood (GL-6832) that:

(a) The Carrier violated the Agreement when, beginning October 6, 1969, it held Stuart E. Mays out of service, arbitrarily holding that he had forfeited his seniority.

(b) Stuart E. Mays shall be restored to service and his name properly placed on the seniority roster and he shall be compensated all wage and wage equivalents lost because of the Carrier's violative actions.

OPINION OF BOARD: Based upon the entire record in the dispute, including the transcript of hearing conducted on October 15, 1969, it is impossible for the Board to make a positive determination as to whether the Claimant was sick during the entire period of his absence between July 7 and October 3, 1969. It is the conclusion of the Board, after a thorough review of the record, that Claimant should be restored to service of the Carrier with his seniority and other rights under the Agreement unimpaired, but without compensation for time lost while out of service. The claim will be sustained to this extent.

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 Employees involved in this dispute are respectively Carrier and Employees 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 Claimant be restored to service with seniority and other rights unimpaired, but without pay for time lost.

AWARD

Claim sustained to the extent shown in Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 11th day of December 1970.