

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20219
Docket Number MW-20187

Frederick R. Blackwell, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(Norfolk and Western Railway Company
((former Virginian)

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

(1) The Carrier violated the Agreement when it furloughed Carpenters C. C. Shrader and H. D. Farmer on October 22, 1971 and retained junior employees in service (System File MW-PR-71-1).

(2) Carpenters C. C. Shrader and H. C. Farmer be restored to their former positions and that they be compensated for all wage loss suffered because of the violation referred to in Part (1) hereof.

OPINION OF BOARD: On October 22, 1971, the Carrier reduced forces on Carpenter Gangs No. 5 and No. 7, New River Division, formerly the Virginia Railway Company. Before the reduction, Gang No. 5 consisted of a foreman, six first-class carpenters, and one second-class carpenter. Gang No. 7 consisted of a foreman, four first-class carpenters, and two second-class carpenters. The reduction in Gang No. 5 was effected by the lay-off of the two junior first-class carpenters, including Claimant Farmer, and the second-class carpenter; the Gang No. 7 reduction was effected by the lay-off of the two second-class carpenters, including Claimant Shrader. The Carrier's method of making the reduction was to cut off junior men within a class, rather than junior men within the respective gangs and, as a result, employees junior to Claimants Farmer and Shrader within the gangs were retained after the reduction. The Employees contend that Carrier's reduction by class, and not by overall seniority within the respective gangs, was in violation of Rule 5(c) which reads as follows:

"(c) When reducing forces, seniority shall govern, first laying off junior employees in the gang or at the point where reduction is to be made, except that employees affected by force reductions desiring to exercise seniority on positions on which they cannot at the time qualify, will be given an opportunity to qualify on their own time and at their own expense. Qualification hereunder must be made within the ten (10) days provided for exercising seniority."
(emphasis added)

The foregoing text makes no reference to classes in its description of how a force reduction shall be effected. It simply and unambiguously speaks of "laying off junior employes in the gang". This language, as applied to the instant facts, can only mean that Carrier was required to make the reductions in the two gangs in the reverse order of overall seniority with the company without regard to classification. However, the Carrier says that, by following overall seniority, there could be the absurd result of a gang consisting of only second-class carpenters, and, conceivably, not even a foreman. The Carrier says further that adherence to overall seniority will destroy the agreed upon separate classifications of first and second-class carpenters.

The Carrier's argument is possibly correct, conceptually. However, if overall seniority had been used in the instant facts, the gangs would have included first-class carpenters and, thus, we are not presented here with an absurd result. More important, though, this Board's function is not to pass judgment on the soundness of the parties' agreement and on whether it will produce absurd results; we are limited to the interpretation and application of agreement language when issues thereon have been drawn. The Rule 5 (c) language in issue here is plainly and simply written, and the portion thereof which we have underlined leaves no doubt that overall seniority in the gang is the determinant in making a force reduction under the rule. Accordingly, we shall sustain the claim.

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 Employes involved in this dispute are respectively Carrier and Employes 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 the Agreement was violated.

Award Number 20219
Docket Number MW-20187

Page 3

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Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A.W. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 30th day of April 1974.