

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22517  
Docket Number MW-22577

Joseph A. Sickles, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees  
(The Chesapeake and Ohio Railway Company  
(Southern Region)

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

(1) The Agreement was violated when a furloughed employee who is junior to Emmett B. Cyrus was called and used to perform extra and relief service from January 6 through January 26, 1977 during which period the claimant was furloughed, available and willing to perform such service. (System File C-TC-400/MG-1844)

(2) Claimant Emmett B. Cyrus shall now be allowed pay for a number of hours equal to the hours worked by junior employee Ward from January 6, 1977 to and including January 26, 1977."

OPINION OF BOARD: The Claimant was on furlough status, however he had notified the Division Engineer of a desire to be used to perform temporary or extra work, as provided in the agreement. He asserts that the Carrier called and used a junior furloughed employee to perform certain extra and relief service during a three-week period in January of 1977.

The Carrier states that there was work for a much shorter period of time than the three weeks specified by the Claimant, but in any event, it asserts that on January 17, 1977, the Claimant made inquiry concerning work in a certain territory, and he was advised that he could work any extra work he desired and was told to contact the appropriate Supervisor. The employee made no effort to make such contact. Notwithstanding the language of the rule concerning protection of seniority, we find absolutely nothing unreasonable about the suggestion of Carrier to the Claimant, and his failure to comply therewith resulted in his failure to work during the pertinent period of time.

In any event, we are unable to find that the Claimant has submitted proof to us of a violation of the agreement, and we will dismiss the claim for said failure of proof.

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 the Agreement was not violated.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST:

A.W. Pauler  
Executive Secretary

Dated at Chicago, Illinois, this 17th day of September 1979.