

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23083
Docket Number MW-23237

Paul C. Carter, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(
(St. Louis-San Francisco Railway Company

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

(1) The Carrier violated the Agreement when it improperly closed the service record of Richard Dismuke (System File A-9526).

(2) Richard Dismuke be returned to service with seniority and all other rights unimpaired and he shall be compensated for all wage loss suffered."

OPINION OF BOARD: The record shows that prior to September 12, 1977 Claimant was employed as a trackman, Class 1, on Gang 253, with headquarters at Aliceville, Oklahoma. Effective September 12, 1977 he was displaced from his regular position as trackman, at which time he filed his name and address in accordance with Rule 78 of the applicable Agreement.

While cut off as a trackman, Claimant, on February 7, 1978, made application for a Class 2 trackman-driver position on System Tie Gang T-2-11. He was awarded the position on February 23, 1978 but failed to report and protect the assignment. The Claimant contends that he was never notified of assignment to the position of trackman-driver. His record was subsequently closed because of failure to protect the trackman-driver assignment.

The Organization points out that trackmen and trackmen-drivers are in separate classes under Rule 5, and contends that, under the Agreement, Claimant's actions with respect to the trackman-driver position (Class 2) could not and did not affect his seniority as trackman (Class 1).

The Board considers the Organization's contention correct and finds that the Carrier was in error in closing Claimant's record as a trackman in 1978.

We will award that Claimant's seniority as trackman (Class 1) be restored, but that Claimant not be awarded any compensation.

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 violated to the extent indicated in Opinion.

A W A R D

Claim sustained in accordance with the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Paulos
Executive Secretary

Dated at Chicago, Illinois, this 15th day of December 1980.

