

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24055
Docket Number SG-23753

Josef P. Sirefman, Referee

PARTIES TO DISPUTE: { Brotherhood of Railroad Signalmen
{ Canadian Pacific Limited - Atlantic Region
{ Lines in Maine and Vermont

STATEMENT OF CLAIM: "Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Canadian Pacific Limited (Lines in Maine and Vermont):

On behalf of Mr. John Dizazzo for restoration to service with seniority and all other rights restored, and for pay for all time a junior employee worked since his furlough." (Sig. file 3351)

OPINION OF BOARD: The Petitioner states its position as being that the Carrier violated the parties' Agreement when it used an employee junior to Claimant while Claimant was in furlough status. It is asserted that the junior employee was in service continuously during Claimant's furlough periods since October 1976. The Petitioner shows Claimant's last service to have been April 29, 1977; Carrier shows a lay-off on October 23, 1977.

The Carrier asserts that Claimant failed to file his address as required by Agreement Rule 13(b); Petitioner has not been able to show to the contrary. Under the terms of Rule 13(b), the consequences of non-compliance is forfeiture of seniority.

To be successful in its position, it is incumbent upon the Petitioner to show that the Claimant's seniority was greater than that of the employee used. Since the Petitioner has been unable to show that Claimant followed the course necessary to maintain seniority, it follows that it cannot be shown that a junior employee worked during his furlough, and the claim must be denied.

In light of our finding above, it is not necessary that we resolve the procedural question raised by Carrier.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the Carrier and the Employee involved in this dispute are respectively Carrier and Employee 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 denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: Acting Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 29th day of November 1982.

