

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24687
Docket Number MW-24852

Eckehard Muessig, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(The Atchison, Topeka and Santa Fe 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 Trackman E.W. Sandlin (System File 130-400.200813).

(2) Trackman E. W. Sandlin 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 Claimant in this dispute had established seniority as a Trackman on Carrier's Northern Division Seniority District. On June 25, 1981, he was furloughed from the Northern Division and subsequently, on July 14, 1981, filed an application for employment on Carrier's Plains Division. Afterward, on July 27, 1981, he was hired and established his seniority date in the Plains Division. However, on August 26, 1981, the Claimant was notified that his application for employment on the Plains Division had been rejected pursuant to the provisions of Rule 20, Section (a). He contends that the August 26, 1981 letter severed his employment with the Carrier.

The record shows that the rejection of the Claimant's application for employment on the Plains Division did not affect his employment relationship on the Carrier's Northern Division. It is on that Division that he had previously established a January 9, 1981, seniority date, and from which he remains in an off-in-force-reduction status. We find, therefore, that as of July 27, 1981, the Claimant had established seniority in two separate and distinct seniority districts. Consequently, the Claimant's employment with the Carrier was not terminated, since his status on the Northern Division was unaffected.

The Carrier, on August 26, 1981, when it rejected the Claimant's application, relied upon that portion of Rule 20, which, in pertinent part, reads that: "Application for employment can validly be rejected only within (60) calendar days after the employee establishes a seniority date."

In the instant case, the Carrier rejected the Claimant's application for employment on the Plains Division within the 60-calendar-day period provided by the rule, i.e., within 60 days of his seniority date of July 27, 1981, on the Plains Division as Trackman. The Board finds that this action is not violative of the controlling rule.

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 denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Lever - Executive Secretary

Dated at Chicago, Illinois this 24th day of February, 1984

