

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25153  
Docket Number MW-25212

Paul C. Carter, Referee

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

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 J. M. Watson, Jr. (System File C-S-1322/MG-3497).

(2) Trackman J. M. Watson, Jr. shall be returned to service with seniority and all other rights unimpaired and he shall be compensated for all wage loss suffered.

OPINION OF BOARD: Claimant, with about six years of service, was on furlough status. He was recalled to service by letter dated March 2, 1982, reading:

"As your seniority date on the Richmond Seniority District, Va. Division, entitled you to work as trackman, you are being advised to report to the foreman on Force TU 222, located at Lee Hall, Va., at 7:30 a.m., immediately."

Rule 2(i) of the applicable Agreement provides:

"Laborers becoming cut-off employees rather than displace junior men elsewhere must return to the gang on which cut off when there is as much as thirty days work for them on that gang or forfeit all seniority. They must report for work under such circumstances, unless prevented by sickness or injury, within ten days after being notified to report and begin work or forfeit all seniority."

Claimant did not report for work within the ten days provided for in the above-quoted rule, but reported on March 15, 1982, at which time he was advised that he could not work because he had not reported within the time limitation. On March 30, 1982, Claimant was notified by Carrier's Manager Engineering:

"Due to your failure to report to the job within the time limit, you have forfeited your seniority and your name is, therefore, being removed from the Richmond District of the Virginia Division Seniority Roster."

In the handling of the dispute on the property, and in its Submission to the Board, the Organization contends that on March 4, 1982, when Claimant received the recall notice he was incarcerated in Louisa County Jail; that the Louisa County Sheriff permitted the Claimant to be released at 8:00 A.M., March 7, 1982, and that Claimant sent a letter to his Foreman that he could not report for work until March 15, 1982, because of the illness of his mother. The Carrier denies that Claimant notified any supervisory officer of his intention to report on March 15, 1982.

The Carrier contends that Rule 2(i) contains only two exceptions to the ten-day limitation provision, namely, sickness or injury to the employe and that such exceptions do not apply in case of sickness of an employe's family members.

Rule 2(i) is clear and unambiguous. Its provisions are self-executing without handling under any other rule. Failure to comply with the rule means the forfeiture of all seniority. The Board can only apply the rule as written, and may not expand or enlarge upon it through the guise of an interpretation. See Awards 10705, 13491, 20070 and 21452.

The claim will be denied.

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 not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:   
Nancy J. Ever - Executive Secretary

Dated at Chicago, Illinois this 30th day of November 1984.