

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25268
Docket Number MW-25356

Paul C. Carter, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(National Railroad Passenger Corporation (Amtrak)

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

(1) The Agreement was violated when the position of Carpenter at Sunnyside Yard, New York as advertised by Bulletin No. 350.45 was awarded to junior applicant M. Jones instead of M. J. Dunn on October 3, 1980.

(2) The agreement was further violated when the Carrier omitted Mr. M. J. Dunn's name from the 1982 B&B Seniority Roster and subsequently terminated him from service effective June 24, 1982.

(3) The claim* as presented by Mr. M. J. Dunn on March 23, 1981 shall be allowed as presented because the claim was not disallowed by Assistant Chief Engineer-Structures A. B. Smythe (appealed to him on May 14, 1981) in accordance with Sections (b) and (d) of Rule 64 [System Docket 312].

(4) As a consequence of either or both (1) and/or (3) above, Mr. M. J. Dunn shall be compensated for all time made by Mr. M. Jones from February 3, 1981 through March 23, 1981.

(5) As a consequence of (2) above, Mr. M. J. Dunn's name shall be restored to the B&B Seniority Roster and he shall be returned to service with seniority and all other rights unimpaired.

*The letter of claim will be reproduced within our initial submission.

OPINION OF BOARD: The record shows that Claimant entered Carrier's service July 15, 1976. At the time of the occurrence giving rise to the claims herein, he held seniority as a Carpenter Helper, and on October 6, 1980, he was awarded a position as Painter.

The record shows that Part (1) of the claim is pending before Public Law Board No. 2406 for final adjudication. This being the case, it would not be proper for this Board to take any action concerning Part (1), and it will be dismissed. Parts (3) and (4) of the claim stem from Part (1), and they will be dismissed. The record shows that Claimant had no seniority as a Carpenter or a Mason and had no entitlement to recall to a Carpenter position.

The Carrier contends that Parts (2) and (5) of the claim were never handled in the usual manner on the property. The record bears out the Carrier's contention in this respect. However, the Carrier advises that the remedy sought in Parts (2) and (5) has been granted, with Claimant being returned to service on July 16, 1982, and his name and date restored to the Painter's Seniority Roster.

The entire claim will be dismissed.

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

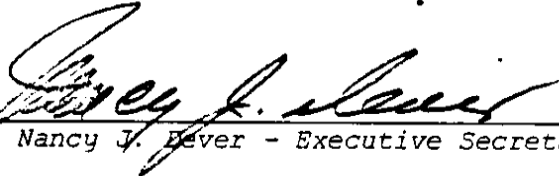
That the claim be dismissed.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 28th day of February 1985.