

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26134
Docket Number MW-25935

Lamont E. Stallworth, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(The Chesapeake and Ohio Railway Company (Northern Region))

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

1. The Carrier violated the Agreement when it failed to recall furloughed Trackman W. T. LaDrig to service on and subsequent to April 4, 1983 (System File C-TC-1641/MG-4070).

2. Claimant W. T. LaDrig shall be allowed pay equal to that paid to a junior trackman beginning April 4, 1983 and continuing until the claimant is recalled to service."

OPINION OF BOARD: The Claimant was furloughed from Carrier's Northern Region as a result of a force reduction on August 27, 1982. He was called by Carrier to perform temporary snow removal duty on one (1) day, March 22, 1983.

When the Carrier increased its forces on April 4, 1983, employees junior in seniority to Claimant were recalled to service. This gave rise to the instant Claim.

Carrier contends that Claimant had failed to file his name and address with the proper Officer within the allotted time and had, therefore, forfeited all seniority and was not subject to recall. Carrier also contends that Claimant's name was not listed on the 1983 Northern Region Trackman's Seniority Roster and no protest was made thereto.

The Organization argues that the Claimant had filed his name and address with his Supervisor when he was furloughed on August 27, 1982, and the Carrier recognized Claimant as a furloughed employee when they called him for temporary service on March 22, 1983.

This Board recognized the Carrier's arguments with respect to the application of the Agreement, i.e., the appropriate procedure for an employee to file his name and address upon furlough and the procedure for filing a Roster protest. However, this Board is also cognizant of the fact that the Carrier allowed Claimant to perform temporary service, albeit one (1) day, which was beyond the time limits of the Rule for filing his name and address and beyond the time for making a Roster protest. Thus, the Board is inclined, based solely on the record before us and the circumstances peculiar to this dispute, to restore the Claimant to the Seniority Roster with a date of March 22, 1983, but without compensation for any time lost.

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

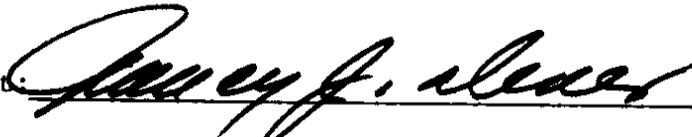
That the Agreement was violated.

A W A R D

Claim sustained in accordance with the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 19th day of September 1986.