

The Third Division consisted of the regular members and in addition Referee Gil Vernon when award was rendered.

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 J. Moyer to service during and subsequent to May, 1983 (System File C-TC-1662/MG-4104).

(2) Trackman J. Moyer shall be recalled to service with seniority and all other rights unimpaired and he shall be compensated for all time worked by junior employees at the location protected by his 1981 recall notice until he is recalled to service."

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employes within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

This record has impressed us that this is a most unusual case. This is primarily because both Parties level unsupported assertion after unsupported assertion. The record warrants more but not much more than outright dismissal or denial. Thus, because of its nature, the record warrants a limited remedy.

Accordingly, the Carrier is directed to reinstate the Claimant and his original seniority date. However, there shall be no pay for time lost.

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Award No. 26941
Docket No. MW-26211
88-3-84-3-621

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dwyer - Executive Secretary

Dated at Chicago, Illinois, this 30th day of March 1988.