

The Third Division consisted of the regular members and in addition Referee Martin F. Scheinman when award was rendered.

(Brotherhood of Maintenance of Way Employees
PARTIES TO DISPUTE: (
(Consolidated Rail Corporation

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

(1) The Carrier violated the Agreement when it failed and refused to afford Mr. G. Davis the proper seniority dates on the March 1, 1983 Conrail New Jersey Division Seniority Rosters (System Docket CR-591).

(2) As a consequence of the aforesaid violation, Mr. G. Davis shall be afforded a seniority date of April 14, 1969 in the Trackman, Truck Driver and Crane Operator classes on the New Jersey Division Seniority Roster."

FINDINGS:

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

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employees 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 were given due notice of hearing thereon.

The relevant facts of this case are not in dispute. Claimant was employed during the period 1950-1972 by the Central Railroad of New Jersey (CNJ), the Lehigh Valley Railroad (LV) and the Lehigh and New England Railroad (L&NE) in various capacities. Upon the reorganization of these railroads into the Conrail system, Claimant's seniority date was determined to be his LV date of employment, April 1, 1972, and not his L&NE date of employment, April 14, 1969.

As a result, the Organization filed this claim. Carrier timely denied it. Thereafter the claim was handled in the usual manner on the property. It is now before this Board for adjudication.

The Organization contends that L&NE and LV employees were entitled to be dovetailed into Conrail Seniority Rosters in accordance with their earliest L&NE or LV seniority dates. While it acknowledges that Claimant's name was not on the L&NE Seniority Roster prepared on December 2, 1974, it argues that this roster was never intended to be a complete listing of all employees holding L&NE seniority. Instead, it submits, the roster was only meant to include employees actively working on the L&NE at that time.

In the alternative, the Organization maintains that the absence of Claimant's name from that roster was merely an error of omission. Therefore, it insists, in either case Claimant is entitled to seniority for his L&NE service. Thus, it asks that the claim be sustained.

After reviewing the record evidence, this Board is convinced that the claim must fail. Upon receipt of a \$1,200 stipend, Claimant, as well as other employees gave up, in essence, all seniority rights which existed prior to April 1, 1972. Under these circumstances, Claimant's employment prior to that date as a L&NE employee cannot be computed on the Conrail Seniority Roster.

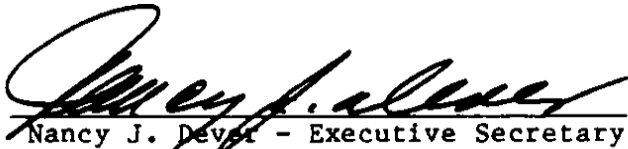
Moreover, this issue was previously addressed in a final and binding arbitration Award rendered on May 21, 1981. In that case, the Board of Adjustment said that Brotherhood of Maintenance of Way employees taken over by LV had a seniority and service date "as new employees with seniority dates of April 1, 1972" or later (emphasis in the original). Thus, there can be no doubt that consistent with the terms of that Award, Claimant's seniority date was properly listed on Conrail's Seniority Roster. Therefore, and for the foregoing reasons, the claim is rejected.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

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