

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

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(National Railroad Passenger Corporation
(Amtrak) - Northeast Corridor

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

(1) The Carrier violated the Agreement when it failed to properly rank Mr. J. E. McCracken on the B&B Department Mechanic's Southern District Seniority Roster (System File NEC-BMWE-SD-1063).

(2) Mr. J. E. McCracken shall be ranked immediately ahead of Mr. F. Prepsel on the B&B Department Mechanic's Southern District 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 waived right of appearance at hearing thereon.

Claimant was employed as a Bridge & Building Mechanic when the claim in dispute arose. In May 1984, Claimant protested the absence of his name on the 1984 Southern District B&B Department Seniority Roster. Carrier responded by correcting the Roster with Claimant's seniority date of June 23, 1983. The Organization, nevertheless, argued that Claimant's new seniority date was incorrect and in addition, that Claimant was entitled to the position in the B&B Department on the Philadelphia Division awarded to F. Prepsel on February 2, 1983.

The Organization asserts that Rule 1 is applicable in this dispute. Rule 1 requires that in the assignment of employees to positions under the Agreement, seniority shall govern. It further maintains that Carrier failed to assign Claimant to the first available Carpenter's position in preference to the hiring of a new employee. It insists that the fact that Carrier failed to advertise a position in the B&B Department deprived Claimant of the opportunity to apply for that position.

Carrier, on the other hand, maintains that when Claimant originally requested a transfer to the B&B Department on the Baltimore Division in 1982, he was notified that when a position became available on the Baltimore Division, he would be notified and interviewed. Therefore, in the Carrier's view, since Prepsel was hired for a position on the Philadelphia Division, the request did not apply in this case. Carrier argues that the claim has no merit since the June 23, 1983, seniority date has been correctly applied on the B&B Mechanic Seniority Roster.

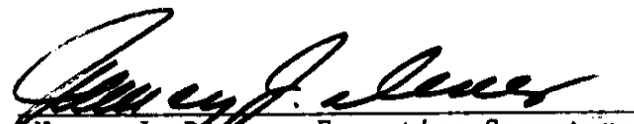
Upon a careful review of the Agreement language, we are convinced that the claim must fail. According to Rule 1, seniority is defined as "...first, seniority in the class in which the assignment is to be made, and thereafter, in the lower classes, respectively, in the same group in the order in which they appear on the seniority roster." In this case, Claimant had no seniority in the Carpenter class or in the lower class on the Carpenter roster and further had no seniority in any class in the B&B Department, when Prepsel was awarded the position on February 2, 1983. Therefore, Claimant was not entitled to be awarded the Philadelphia Division Carpenter position awarded Prepsel. Accordingly, the claim must be denied.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Defer - Executive Secretary

Dated at Chicago, Illinois, this 4th day of May 1989.