

The Third Division consisted of the regular members and in addition Referee Rodney E. Dennis when award was rendered.

PARTIES TO DISPUTE: (Transportation Communications International Union
(Bessemer and Lake Erie Railroad Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Organization (GL-10403) that:

1. Carrier violated the effective agreement when it terminated the seniority of Mr. F. P. Surano effective October 27, 1988.

2. Carrier shall now reinstate Mr. Surano to service with his seniority and all other rights unimpaired and shall compensate him for all time lost at the rate of his position of janitor, Monroeville, PA."

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 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 held a seniority date of May 24, 1977, on the Maintenance of Equipment Roster. He was furloughed from that Roster. He accepted a job in the General Office, with a seniority date of July 3, 1978. He kept his seniority date on the Maintenance of Equipment Roster.

On October 21, 1988, Claimant elected to give up his regular position as Janitor on the General Office Roster and mark up on the M of E Unassigned List, on which he held seniority. Carrier denied this request, indicating that there was no unassigned position available at the time. Claimant did not report to work on his regular job after October 24, 1988. Carrier subsequently notified Claimant that since he had voluntarily given up his regular job and was denied transfer back to the M of E unassigned list because there was no job for him there, he had voluntarily quit the Carrier and forfeited all seniority. The Organization objected to this position and the instant arbitration resulted.


This Board has reviewed the record and has concluded that Claimant, in fact, did voluntarily leave the employ of Carrier and, as such, he forfeited all seniority. It is established in the record that Claimant wanted to leave the employ of Carrier to pursue a career with the Postal Service. He did not, however, want to sever all ties with the Carrier in the event he was unsuccessful at the Post Office. He wanted to maintain his seniority rights on the M of E Roster. Carrier informed the Claimant prior to his Hearing that he could not do this. Claimant chose to leave anyway and fight the case afterwards. He did this at his own peril. He should have maintained his position in the General Office and preserved his rights to transfer back to the M of E Roster from that position.

This Board has concluded that since no job existed for Claimant to which to transfer, Carrier was correct in not allowing him to leave his regular job and still maintain a spot on the M & E Roster. Claimant acted hastily by leaving his job and pursuing his claim afterwards.

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 29th day of August 1991.