

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award No. 29804
Docket No. MW-30020
93-3-91-3-414

The Third Division consisted of the regular members and in addition Referee Robert G. Richter when award was rendered.

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

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

- (1) The Agreement was violated when Mr. J. McCain's name was erroneously removed from the 1990 Seniority Roster on the Harrisburg Division (System Docket MW-1085).
- (2) As a consequence of the violation referred to in Part (1) above, Claimant McCain's seniority shall be restored to its appropriate roster standing on the Harrisburg Division."

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 employe 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 seniority on the Eastern Region Harrisburg District when he was dismissed from service on October 2, 1987. On March 10, 1988, the Carrier reinstated the Claimant on a leniency basis. This reinstatement apparently was a settlement made with the Organization.

The record further indicates that the Carrier attempted to contact the Claimant by certified mail and that these letters went unclaimed. As a result of being unable to contact the Claimant,

the Carrier, by letter dated April 28, 1988, notified Claimant that his seniority had been terminated under provisions of Rule 5(d). A copy of the letter was furnished the Organization. The record is unclear whether this letter was received by the Claimant, however, the Organization has not argued that the Claimant did not receive the letter.

The next contact the Carrier had from the Claimant was when he wrote relative to his employment status. He was informed that his seniority was terminated because he failed to return to duty when he was reinstated.

The Organization is claiming that the Carrier improperly removed the Claimant from the 1990 Seniority Roster. The record is clear that the Claimant lost his seniority on April 28, 1988. The Organization was fully aware of and did not contest the action of the Carrier at that time.

This Board finds that the Carrier did not violate the Agreement and will deny the claim.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: Catherine Loughrin
Catherine Loughrin Interim Secretary to the Board

Dated at Chicago, Illinois, this 29th day of September 1993.