

PUBLIC LAW BOARD NO. 3308

Award No. 18

Case No. 19

PARTIES Brotherhood of Maintenance of Way Employees
TO
DISPUTE The Atchison, Topeka and Santa Fe Railway Company

STATEMENT
OF CLAIM

"Claim for reinstatement of former Trackman Howard Lolar, Middle Division, 'with seniority, vacation, all benefit rights unimpaired, pay for wage loss and/or otherwise made whole,' account the claimant's name being improperly removed from the seniority roster for failure to respond to recall."

FINDINGS Upon the whole record, the Board finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended, and that this Board is duly constituted under Public Law 89-456 and has jurisdiction of the parties and the subject matter.

Claimant was in an off-in-force-reduction status and was subject to recall. In a letter dated May 20, 1982, Claimant was recalled under the provisions of Rule 2, Section (c), reading in part as follows:

"xxxx failure to report on the date indicated in the notification of recall, not to exceed fifteen (15) calendar days from date of notification of recall forwarded to the employee's last known address, without a satisfactory reason, will result in forfeiture of seniority in the class where recalled."

Claimant failed to report in a timely fashion as required by the rule. In a letter dated June 7, 1982, Carrier advised Claimant that his name was removed from the seniority roster in accordance with rule supra.

Rule 2, Section (c) is self-executing and provides that failure to respond in a timely fashion results in an employee being considered resigned. This Board has recently considered a related dispute, Awards Nos. 16 and 17, and found in those Awards also that seniority rights were terminated under the provisions of Rule 2, Section (c).

The record in this case clearly demonstrates that Claimant did not abide by the time limit provisions of the applicable rule. Therefore, Carrier did not violate the Agreement.

AWARD Claim denied.

Clarence H. Herrington
Clarence H. Herrington
Neutral Member

M. J. Carman
Carrier Member

S. E. Flaming
Organization Member

Dated at Chicago, Illinois
March 1, 1983