

NATIONAL MEDIATION BOARD

PUBLIC LAW BOARD NO. 4370

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

and

BURLINGTON NORTHERN RAILROAD COMPANY

AWARD NO. 7

Case No. 1

STATEMENT OF CLAIM

1. That the Carrier violated the provisions of the current agreement when it failed to recall Mr. D. R. Childress from a furloughed status in seniority order.

2. The Carrier will now be required to reimburse Mr. Childress for all wage loss suffered as result of the violation referred to above.

F I N D I N G S

Claimant was furloughed on January 28, 1985. The Carrier alleges that no notice was received from the Claimant filing his name and address for recall purposes. As a result, the Claimant's name was removed from the seniority roster, in accordance with Rule 13 (c). When the Claimant called the Division Office in May 1986 to inquire as to his status, he was advised of the Carrier's previous action.

RECEIVED

AUG 15 1988

EMPLOYEE RELATIONS

The Claimant contended that he had filed the necessary recall form in timely fashion and produced his own file copy of the form. The Claimant was then reinstated to seniority and recalled for the next available opening.

The remaining dispute concerns whether or not the Claimant should be compensated for the time he was out of work during which junior employees had been recalled.

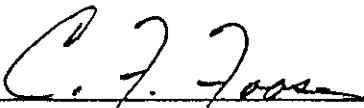
While the Claimant's action in filling out the recall form was substantiated, there remains the question as to its receipt at the time by either the Carrier or the Organization. The solution worked out on the property by the parties appears to have been fair and equitable. The Board finds that the Carrier acted in good faith and notes that the Claimant made no inquiry concerning his situation for 16 months. No further remedy is appropriate.

A W A R D

Claim denied.



HERBERT L. MARX, JR., Referee



C. F. Foose, Employee Member



R.J. Schneider, Carrier Member

NEW YORK, NY

DATED: