

NATIONAL MEDIATION BOARD

PUBLIC LAW BOARD NO. 4370

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

and

BURLINGTON NORTHERN RAILROAD COMPANY

AWARD NO. 8

Case No. 6

STATEMENT OF CLAIM

Claim on behalf of C. L. Smith that he be compensated February 28, 1986, and continuing until such time as the alleged violation ceases.

F I N D I N G S

At the time of this dispute, the Claimant held seniority in the seniority district encompassed in the agreement between the Colorado and Southern Railway Company and the Organization. He voluntarily sought and was accepted for employment on the Joint Texas Seniority District, covered by agreement of the Chicago Rock Island and Pacific Railroad Company and the Organization. He was released from service under the latter agreement by the Carrier within 60 days of his employment. The Carrier refers to Rule 6 as its authority to terminate the Claimant's services on the Joint Texas Seniority District. Rule 6 reads in pertinent part as follows:

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EMPLOYEE RELATIONS

(a) An employee who enters the service of the Company shall be accepted or rejected within sixty (60) days from the date he enters service.

The Organization argues that this rule is inapplicable here, since the Claimant had previously established seniority with "the Company" five years earlier. The Board does not agree with this reasoning. Clearly, the Claimant was accepted for employment under the agreement covering the Joint Texas Seniority District with no seniority standing and thus was subject to the provisions of Rule 6 of that agreement.

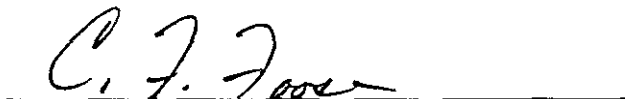
Allegations by the Organization that the Claimant was terminated because of an injury were not substantiated, nor would such contention serve to mitigate the effect of Rule 6. As pointed out by the Carrier, Claimant's seniority standing on the Colorado and Southern seniority district remained unimpaired.

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: