

PUBLIC LAW BOARD NO. 4950

NEW JERSEY TRANSIT RAIL OPERATIONS, INC. :
"Carrier" : Case No. 24
vs. :
BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES : Award No. 14
"Organization" :

STATEMENT OF CASES

C. W. Latham - Forfeiture of Seniority.

OPINION OF THE BOARD

Carrier maintains that Claimant was absent without permission from December 16 to December 31, 1988 from his position as Trackman. Carrier further asserts that by this absence Claimant forfeited all seniority by violating Rule 27 (b), which reads in part as follows:

Except for sickness or disability, or under circumstances beyond his control, an employee who is absent in excess of fourteen (14) consecutive days without receiving permission from his supervisor will forfeit all seniority under this Agreement. The employee and the General Chairman will be furnished a letter notifying them of such forfeiture of seniority. The employee or his representative may appeal from such action under Rule 26, Section 3.

The Organization raises several defenses on behalf of Claimant, including that dismissal was improper because Claimant failed to cover his assignment on the days in question due to circumstances beyond his control. In addition, the Organization

contends that Claimant's length of service with Carrier should be taken into consideration.

The Board has determined that the claim must be denied.

The record evidence clearly establishes that Claimant was absent without permission for a period of 14 consecutive days, running from December 16 to December 31, 1988. In these circumstances, Rule 27 (b) is applicable. As its terms expressly indicate, it is a self-executing provision that calls for forfeiture of all seniority. This Board has no authority to modify the language that both parties have agreed to in this Rule.

AWARD

Claim denied.

W. B. Murphy
Carrier Member

W. E. LaRue
W. E. LaRue
Organization Member

S. E. Buchheit
S. E. Buchheit
Neutral Member