

AWARD NO. 194
Case No. 194

Organization File No. I59700913
Carrier File No. 2013-139033

PUBLIC LAW BOARD NO. 7163

PARTIES) BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES DIVISION,
) INTERNATIONAL BROTHERHOOD OF TEAMSTERS
TO)
)
DISPUTE) CSX TRANSPORTATION, INC.

STATEMENT OF CLAIM:

1. The Agreement was violated when the Carrier called back junior furloughed employee J. Dawson ahead of Claimant J. Sanders.
2. As a consequence of the violation referred to in Part 1 above, Claimant J. Sanders shall be compensated for all straight time and overtime made by junior employee J. Dawson between December 10, 2012 and January 10, 2013.

FINDINGS:

The Board, upon consideration of the entire record and all of the evidence, finds that the parties are Carrier and Employee within the meaning of the Railway Labor Act, as amended, that this Board is duly constituted by Agreement dated March 20, 2008, this Board has jurisdiction over the dispute involved herein, and that the parties were given due notice of the hearing held.

Claimant was hired by the Carrier as a Trackman on the Nashville Division on October 10, 2010. J. T. Dawson was similarly hired one year later. Both employees, according to the Organization, were in furlough status on December 10, 2012, when the Carrier recalled Trackman Dawson. The Organization filed the instant claim asserting that the Carrier denied Claimant the right to be recalled on December 10, 2012 despite his being senior to Dawson. The Organization insists that

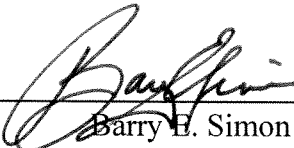
Claimant had provided the Carrier with his correct address and phone number, as required by Rule 4, Section 2(c) of the Agreement, which provides as follows:

Furloughed employees desiring to protect their seniority will keep their correct address and phone number on file with the Company and the General Chairman. The parties agree that this paragraph (c) will not be construed as the method to recall furloughed employees. The only method is described below in Section 3 of this rule. (Also see National Addendum to Agreement dated September 26, 1966, -Section 23).

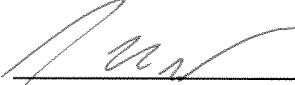
The Carrier has responded by asserting that Claimant had voluntarily furloughed himself by not placing himself on another position when he was displaced by a senior employee. Upon his displacement, the Carrier explains it was Claimant's responsibility to obtain a "bump list" from the Position and Attendance Control System (PACS) office, or contact his Roadmaster or the Staff Engineer to determine if there was any other work for him. According to the Carrier, Claimant simply elected to go home.

Unfortunately, it is impossible for the Board to determine if this was truly a failure of the Carrier to recall Claimant from furlough, or a matter of a junior employee continuing to work after Claimant got displaced. The Organization has the burden of showing there is a factual basis for its claim. What is missing from the record is information about when Claimant was displaced and went on furlough. If he was displaced on or about December 10, 2012 and simply failed to take steps to exercise his seniority, there would be no basis for his claim. It might be another matter if both Claimant and Dawson had been furloughed for some period of time. Because we cannot ascertain the facts from the record before us, we are unable to determine whether there had been a violation of the Agreement. We must, therefore, deny the claim.

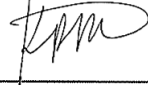
AWARD: Claim denied.



Barry B. Simon
Chairman and Neutral Member

 3/31/16

Andrew Mulford
Employee Member



Rob Miller
Carrier Member

Dated: February 23, 2016
Arlington Heights, Illinois