

SPECIAL BOARD OF ADJUSTMENT NO. 1016

Parties
to the
Dispute

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

vs.

CONSOLIDATED RAIL CORPORATION

Case No. 16

Awd. 16

STATEMENT OF CLAIM

- (1) The Carrier violated the Agreement when it failed to recall furloughed Trackman H. Conley on and subsequent to April 15, 1985.
- (2) Trackman H. Conley shall be allowed two hundred (200) hours of pay at the trackman's straight time rate for the period beginning April 15, 1985 and ending May 16, 1985 and he shall be allowed overtime pay equivalent to that paid to Trackman L. M. Barker during the claim period.

OPINION OF THE BOARD

On April 9, 1985, Trackman L. M. Barker was recalled to service. Claimant H. Conley contends he should have been recalled ahead of Barker and asks for 200 hours pay he lost from April 15, 1985, until May 16, 1985. Claimant was recalled to work on May 20, 1985.

It appears from the record that when Carrier recalled Mr. Baker to work on April 9, 1985, it did bypass at least two people who were more senior than Baker. Carrier erred in this regard. On June 13, 1985, Petitioner filed a claim for the time from April 15, 1985, to May 16, 1985. Carrier responded to this claim by contending that the claim was not filed within 60 days of the event that gave rise to it and that, in the final analysis, Claimant was not the most senior employee bypassed. Someone else was.


This Board has reviewed this record and we are compelled to conclude that Carrier violated the Agreement in this instance and that the claim for 200 hours straight time should be paid to Claimant. Claimant was more senior to the employee who was called back. In that regard, he has been damaged.


In regard to Carrier's argument that the claim was filed more than 60 days from the date of the occurrence that triggered the claim, here too this Board must decide against Carrier. Claimant filed a complaint with the Union as soon as he was aware of the fact that an employee junior to him had been called back to work a month prior to him. Very soon after that date, the claim was filed. The time limits were met.

AWARD

The claim is sustained.


R. E. Dennis, Chairman


R. O'Neill, Carrier Member


S. V. Powers, Employee Member

4-24-90
Date of Adoption