

PROCEEDINGS BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 1016

AWARD NO. 38

Case No. 38

Referee Fred Blackwell

Carrier Member: J. H. Burton

Labor Member: S. V. Powers

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

vs.

CONSOLIDATED RAIL CORPORATION

STATEMENT OF CLAIM:

Claim of the System Committee of the Brotherhood that:

(1) The Agreement was violated when the Carrier failed and refused to remove the name of Mr. C. R. Thacker from the 1986 Repairman Seniority Roster (System Docket CR-2571).

(2) The name of Mr. C. R. Thacker shall promptly be removed from the 1986 Repairman Seniority Roster.

FINDINGS:

Upon the whole record and all the evidence, and after hearing on August 17, 1989, in the Carrier's Office, Philadelphia, Pennsylvania, the Board finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended, and that this Board is duly constituted by agreement and has jurisdiction of the parties and of the subject matter.

OPINION

The Claimant Repairman alleges that the Carrier improperly denied his May 25, 1986 protest that the Carrier had improperly carried Repairman Thacker on the 1986 seniority roster.

By letter dated May 29, 1986 (Organization Exhibit B-2) the Carrier stated that Repairman Thacker had returned to work and

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that the reason "he was off is now a moot question".

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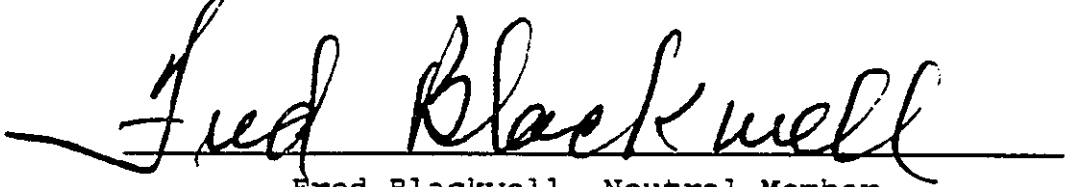
The record reflects that the Carrier records showed the Claimant as having marked off sick from July 12 - 23, 1985, and as having been on non-service related disability from July 23, 1985 forward. The Carrier records also reflect that the Claimant was on furlough during this period; and that on or about April 18, 1986, the Claimant responded to a recall notice and returned to work.

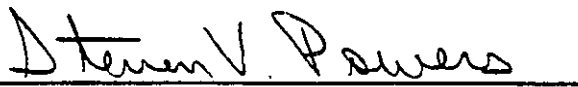
In light of these facts, and based on study of the record as a whole, the Carrier's statement that it had no reason to remove Repairman Thacker from the seniority roster is persuasive. Accordingly, the protest against such action will be denied.


AWARD:

Claim denied.

BY ORDER OF SPECIAL BOARD OF ADJUSTMENT NO. 1016


Fred Blackwell, Neutral Member


S. V. Powers, Labor Member


J. H. Burton, Carrier Member

Executed on DEC 28 1990, 1990

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