

NATIONAL MEDIATION BOARD

SPECIAL BOARD OF ADJUSTMENT NO. 1049

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES)
DIVISION - IBT RAIL CONFERENCE) Case No. 202
and)
) Award No. 202
)
NORFOLK SOUTHERN RAILWAY COMPANY)
_____)

Richard K. Hanft, Chairman & Neutral Member
T. W. Kreke, Employee Member
D. L. Kerby, Carrier Member

Hearing Date: May 1, 2010

STATEMENT OF CLAIM: “Claim of the System Committee of the Brotherhood that:

1. The Carrier violated Rules 2, 3, 4, and 9 of the Agreement when it placed the names of several employes assigned to operate machines in the D-1 Classification on all four (4) 2008 Southern Track A-1 Foreman Seniority Rosters (Carrier’s File CS-MW-1-58-2 {2009A1-F})
2. As a consequence of the violation referred to in Part 1 above, the Carrier shall make the appropriate changes to the A-1 Foreman Seniority Rosters removing all D-1 Machine Operators improperly placed thereon.”

FINDINGS:

Upon the whole record and all of the evidence, after hearing, the Board finds that the parties herein are carrier and employee within the meaning of the Railway Labor Act, as amended and this Board is duly constituted by agreement under Public Law 89-456 and has jurisdiction of the parties and the subject matter.

This dispute concerns the alleged placement of employees assigned to operate machines in the D-1 classification onto the 2008 Southern Track A-1 Foreman Seniority Rosters by virtue of having completed 91 days in the A-1 classification. Specifically, the involved employees would be D-1 Operators of Gradall machines who were given the job title of Foreman-Operator and thereby alleged that they were performing ‘service’ in the A-1 rank

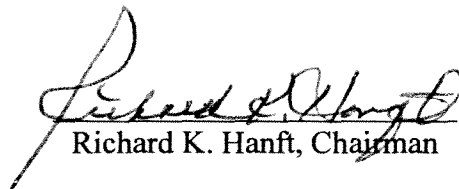
Given that the A-Rank and D-Rank are separate sub-departments under the seniority rule, as correctly argued by the Organization, employees regularly assigned to operate a D-1 rank machine could not have simultaneously performed service in the A-rank as contemplated by the


rules with respect to establishing an A-1 seniority date after 91 days of service in the rank , regardless of the historic Foreman-Operator job title.. The Organization's protest was timely and properly presented. However, this Board must dismiss the claim because it is not ripe for adjudication. The Organization has failed to name any employees who were erroneously placed on the 2008 Southern Track A-1 Foreman Seniority Roster.

The Board shall retain jurisdiction of this matter and in the event that the Organization timely identifies any employees placed on the 2008 Southern Track A-1 Foreman Seniority Roster, the matter shall be remanded to the parties for discussion. In the event that settlement cannot be achieved through discussions, the Board reserves jurisdiction to settle the matter.

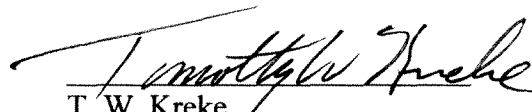
AWARD

Claim dismissed.


Richard K. Hanft, Chairman


D. L. Kerby
Carrier Member

Dated: 8/26/10


T. W. Kreke
Employee Member

Dated: August 26, 2010

Dated at Chicago, Illinois, June 30, 2010