

PROCEEDINGS BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 1016

AWARD NO. 65

Case No. 65

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 allowed Mr. V. Stockum a Vehicle Operator's seniority date of August 1, 1979 on the Pittsburgh District Seniority Roster (System Docket CR-2479).
- (2) The Pittsburgh District Seniority Roster shall be corrected to show Mr. V. Stockum with a Vehicle Operator's seniority date of December 5, 1983.

**FINDINGS:**

*Upon the whole record and all the evidence, and after hearing on December 17, 1990, 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.*

**DECISION:**

Claim Sustained.

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OPINION

On May 22, 1985, Claimant R. E. Burdette filed a claim alleging that he was senior to Mr. V. L. Stockum in Vehicle Operator seniority and that the Carrier had improperly honored Mr. Stockum's protest of the 1984 Pittsburgh District Seniority Roster by assigning him a Vehicle Operator seniority date of September 1, 1979 on the Pittsburgh District Seniority Roster. The end result of this improper action by the Carrier was that Mr. Stockum was improperly placed ahead of Claimant on the Pittsburgh District Seniority Roster.

The Organization supports the position of Claimant Burdette on the ground that the Carrier's approval of Mr. Stockum's roster protest violated Rule 4, Section 6 (c) of the Agreement.

The Carrier supports the seniority date of Mr. Stockum on the ground that his protest of the 1984 roster was valid and that the Carrier properly allowed the remedy requested in the protest.<sup>1</sup>

The Agreement provision relied upon by the Organization, Rule 4, Section 6 (c), reads as follows:

*"Section 6. Seniority rosters.*

*\* \* \**

*(c) No change on seniority rosters will be made by the Company without conference and agreement with the involved union representative."*

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<sup>1</sup> The Carrier argues additional procedural points which have been considered and rejected for lack of record support.

The record shows beyond question that the Carrier acted unilaterally when it ruled favorably on Mr. Stockum's protest and changed the 1985 Pittsburgh Seniority District Roster to show Mr. Stockum with a Vehicle Operator seniority date of September 1, 1979. The Carrier's action regarding Mr. Stockum's roster protest thus violated Rule 4, Section 6 (c), of the Agreement and a sustaining award is in order.

The Board notes that Mr. Stockum has a right to file a protest of the next annual roster, in accord with the parties' Agreement, in regard to any change in his seniority resulting from this Award. In addition, the parties are directed to send notice of said right to Mr. Stockum by certified mail.

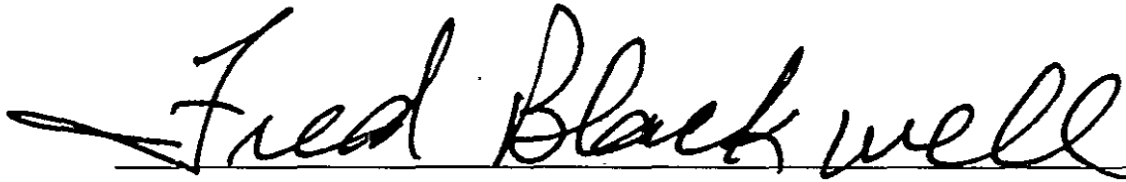
In view of the foregoing, and based on the record as a whole, the claim is sustained.

**AWARD:**

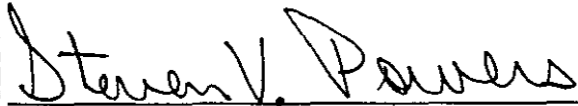
Claim sustained as per the Opinion. The Carrier violated Rule 4, Section 6 (c), of the Agreement and therefore, the Organization's objection to the Carrier's favorable action on Mr. Stockum's roster protest is found to be valid.

The Carrier shall comply with this Award on or before December 10, 1992.

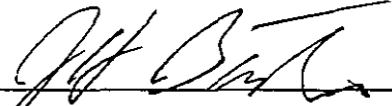
BY ORDER OF SPECIAL BOARD OF ADJUSTMENT NO. 1016.



Fred Blackwell, Neutral Member



S. V. Powers, Labor Member



J. H. Burton, Carrier Member

Executed on 11/20, 1992

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