

SPECIAL BOARD OF ADJUSTMENT 1063

Case No. 370
Award No. 370

PARTIES TO DISPUTE:

Brotherhood of Locomotive Engineers

and

Norfolk Southern Railway Company

STATEMENT OF CLAIM:

Claim on behalf of Virginia Division Engineer S. J. Hall protesting his standing on the Blue Ridge District Seniority Roster.

OPINION OF THE BOARD:

This is a Seniority case. The issue framed for decision is the protest of Claimant Engineer for his proper placement on the Blue Ridge District Seniority Roster for Engineers. The very narrow question is whether Claimant was properly positioned on the Engineer's roster behind other employees who were junior in trainmen seniority, but who went to Locomotive Engineer Training (LET) school ahead of him, and began work as Engineers after their completion of training. The reason for the so called run-around was the Claimant had sustained a shoulder injury on March 25, 1995, and was unable to work for a period of time thereafter. When he was finally cleared for return to duty, he was not medically cleared for ground service. He was thereafter sent to the first available LET class, which began on or about April 1998. He completed his LET training and was placed on the Engineer's roster on April 4, 1999.

The gist of Petitioner's complaint is that Claimant, through no fault of his own, was not able to participate in earlier LET classes, because of his on-duty injury, therefore Carrier should consider such an event a mitigating factor in assigning seniority.

With perfect candor, the Petitioner makes an appealing request for justice. However, ours is not a Board of Equity. The Board's function under the Railway Labor Act, is to interpret and apply Agreements in accordance with their terms. In this respect, the Carrier directs the Board's attention to the relevant contractual provisions of the Engineer's contract, which

plainly state the seniority date "shall be the date of his [her] first service as engineer". In short, it is the BLE contract that determines seniority as an Engineer, so other contractual provisions covering ground service employees must be harmonized with those provisions.

It was an unfortunate turn of events that prevented Claimant from entering and completing his LET training and first performance of Engineer's service, which is the event that triggers Engineer seniority entitlement. Thus, it is the contract that controls our disposition, so the claim must be denied.

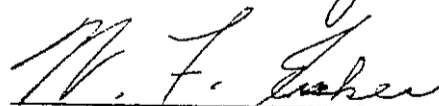
FINDINGS:

The Agreement was not violated.

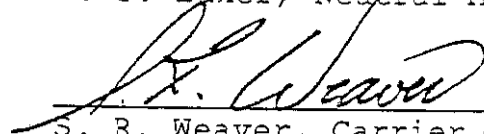
AWARD:

Claim Denied.

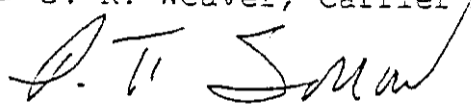
Dated at Norfolk, Virginia, this 22nd day of June, 2001.



W. F. Euker, Neutral Member



S. R. Weaver, Carrier Member



P. T. Sorrow, Organization Member