

SPECIAL BOARD OF ADJUSTMENT NO. 192



PARTIES:

BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYEES
and
THE BALTIMORE AND OHIO RAILROAD COMPANY

AWARD IN DOCKET NO. 30

STATEMENT
OF CLAIM:

Claim of the System Committee of the Brotherhood that:

(1) Carrier violated the Agreement when it permitted Robert Whitney at Cumberland, Md., Freight Platform, who held no seniority under the Clerks' Agreement to perform service on rest day of regular assigned Trucker J. Calzone who held seniority under the Agreement, and

(2) That Carrier shall now compensate Trucker J. Calzone for eight (8) pro rata hours for Saturday, June 11, 1955.

FINDINGS:

The Carrier hired an individual, one Mr. Whitney, into the classification of trucker. His first day of service was Saturday, June 11, 1955, which was the rest day of claimant's position. It appears that Mr. Whitney worked again as a trucker on June 17, 1955 and continuously thereafter until September 1, 1955, when he transferred to the Stores Department.

The employees concede that Mr. Whitney became a bona fide employee on June 17, 1955, but contend that he did not accumulate any seniority under Rule 27(a) until after he performed service. The employees, therefore, argue that the Carrier violated the seniority rights of the regularly assigned claimant who was ready, willing and able to work Saturdays.

The position taken by the employees with respect to the accumulation of seniority of Mr. Whitney is contra to the language of Rule 27(a) which provides (with certain exceptions not applicable here) that seniority begins at the time the employee's pay starts in the seniority district. It is also contrary to the position taken by the employees on other matters affecting seniority. (See our Award in Docket No. 40) It is clear from the language and consistent application of Rule 27(a) that Mr. Whitney started to accumulate seniority as a trucker on June 11, 1955. There is no rule in the Agreement which prohibits the Carrier from hiring a new employee to perform his initial service on the rest day of another position, provided that he enters the service of the Carrier in a bona fide employee status, as Mr. Whitney did in this instance. The Third Division awards cited by the employees have no application to the instant dispute since they dealt with the performance of service on rest days of regularly assigned employees by individuals (students or others engaged in other occupations) who did not enter the service of the Carrier as bona fide employees. Here it is conceded that Mr. Whitney was a bona fide employee on June 17, 1955, which clearly indicates that he entered the service of the Carrier as a regular employee.

It is apparent from the above that we can find no basis for a sustaining Award.

AIARD

Claim (1), (2) denied.

/s/ Francis J. Robertson
Francis J. Robertson
Chairman

E. J. Hoffman
Employee Member

/s/ T. S. Woods
T. S. Woods
Carrier Member

Dated at Baltimore, Maryland this
17th day of February, 1959.