

SPECIAL BOARD OF ADJUSTMENT NO. 488  
BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES  
and  
THE BALTIMORE AND OHIO RAILROAD COMPANY  
AWARD IN DOCKET NO. 54

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

(1) The Carrier violated the effective Agreement by failing to retain in its service Trackman Elvin F. Lease, Pittsburgh East End Division, subsequent to July 2nd, 1962, and instead retained a junior trackman.

(2) That Trackman Elvin F. Lease, be now reimbursed for 8 hours' pay at the trackman's rate for each of the following days:

July 3, 4, 5, 6, 9, 10, 11, 12, 13, 16, 17, 18, 19, and 20, 1962."

FINDINGS: The claimant here had established seniority in his own gang under Rule 10(d). Carrier's defense that claimant's "work did not prove satisfactory" is not acceptable. He had worked as a trackman from May 11, 1962. There is no evidence here of unsatisfactory work performance from that date until August 31, 1962 -- almost two months after claimant had been furloughed, and five weeks after he filed this claim.

AWARD: Claim sustained.

/s/ Edward A. Lynch  
Edward A. Lynch, Chairman

/s/ A. J. Cunningham  
A. J. Cunningham, Employee Member

/s/ W. B. Kohler - Dissent  
W. B. Kohler, Carrier Member

Dated at Baltimore, Maryland,  
this 29th day of June, 1965.