



Legal Opinion L-2003-02
January 31, 2003

U.S. Railroad Retirement Board Phone: (312) 751-7139
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TO : Retirement Initial Section (Attention: Stephanie)
Through: Bobby V. Ferguson
Director of Programs

FROM : Steven A. Bartholow
General Counsel

SUBJECT: Deemed Current Connection

This is in reply to your inquiry dated January 13, 2003, regarding whether xxxxxxxx xxxxxxxxxxxx qualifies for a deemed current connection.

Section 1(o) of the Railroad Retirement Act provides in pertinent part that an individual shall be deemed to have a current connection:

* * * if, after having completed twenty-five years of service, such individual involuntarily and without fault ceased rendering service as an employee under this Act and did not thereafter decline an offer of employment in the same class or craft as the individual's most recent employee service. * * *

In his letter of April 8, 2002, xxxxxxxxxxxx describes the circumstances under which he lost his employment in 1986 and requests that he be credited with an additional three service months¹. xxxxxxxxxxxx states that he was employed in Ogden, Utah, by the Southern Pacific Railroad when, in June 1986, windstorms washed away a part of the earthen fill across the Great Salt Lake suspending rail traffic over the fill into the shops where he worked. He was one of a number of employees who were furloughed. In August 1986, the tracks across the fill were reopened to train traffic and engineers, brakemen, conductors, and six Carmen out of 52 were back at work. xxxxxxxxxxxx was one of those who was not recalled. In 1987, xxxxxxxxxxxx accepted a separation allowance.

xxxxxxxxxxx provides substantiation of the foregoing, including a letter dated December 17, 1987, from his former supervisor in which he states that xxxxxxxxxxxx "was furloughed when the employee work force was reduced in Ogden and will not be subject to recall."

Based on the information of record, xxxxxxxxxxxx has 25 years of railroad service and involuntarily and without fault ceased rendering service. There is no evidence that he thereafter declined an offer of employment in the same class or craft as the individual's most recent employee service. Therefore, xxxxxxxxxxxx should be found to have a deemed current connection.

¹ His request is apparently based on his belief that he has been credited with only 297 months of railroad service. However, perhaps after his letter was submitted, he has been credited with four months of military service, so that he has been credited with 25 years of railroad service.