

The Second Division consisted of the regular members and in addition Referee Peter R. Meyers when award was rendered.

PARTIES TO DISPUTE: (International Brotherhood of Electrical Workers
(
(Burlington Northern Railroad Company

STATEMENT OF CLAIM:

1. Did the Burlington Northern Railway Co. violate Rules 38h, 26g-2, and 22d, all of which are part of the current controlling Agreement between the International Brotherhood of Electrical Workers and the Burlington Northern Railway Co. dated April 3, 1983, when it recalled furloughed Electrician R. L. Freitag to fill a new position of -40 ton crane operator?

2. Did the Burlington Northern Railroad Co. violate Rule 38h, 26g-2, and 22d when it arbitrarily placed seventeen (17) electricians on the minus 30 ton crane operators seniority roster on January 20, 1984?

3. Did the Burlington Northern further violate the current controlling Agreement dated April 3, 1983, and in particular Rules 38h, 26g-2, 22d, and 76 section - Electric Shop Cranes, when it failed to recall senior furloughed Crane Operator T. P. Levins to fill a new position of -40 ton crane operator at the Burlington Northern Railroad Co. owned, Burlington, Ia. facility?

4. If it did then the Burlington Northern Railroad Co. should be ordered to restore furloughed Crane Operator T. P. Levins to his rightful position and also that Crane Operator Levins be made whole as to all lost wages, benefits and other rights due him under the current controlling Agreement. Claim to start on date that the Burlington Northern Railway Co. recalled Electrician R. L. Freitag and to continue until Electrician Freitag is removed not only from the -40 ton crane operator position but also from the -40 ton crane operators' roster. Also, that the Carrier removed these 17 journeymen electricians from the minus 40 ton crane operators seniority roster as set forth in the controlling Agreement.

FINDINGS:

The Second Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employes within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute were given due notice of hearing thereon.

In January 1984, by Agreement of the Organization's General Chairman and Carrier's Manager of Labor Relations, a corrected crane operators' seniority roster for the Ottumwa seniority district was issued. The corrected roster included names of crane operators who had been erroneously removed from the roster when they became electricians. On January 20, 1984, Carrier recalled R. L. Freitag, who held seniority on both the crane operators' and electricians' rosters, to operate a less than 40 ton crane. The Organization thereafter filed a claim on Claimant's behalf, asserting that Freitag should not be on the crane operators' roster, that Claimant should have been recalled to operate the minus 40 ton crane, and that the electricians who previously worked as crane operators should not have been restored to the crane operators' roster.

This Board has reviewed the evidence in this case, and we find that the Organization has failed to meet its burden of proof. Hence, the claim must be denied.

This Board has already dealt with this issue in Award 10842, and we will follow that ruling in this case.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Decker - Executive Secretary

Dated at Chicago, Illinois, this 16th day of March 1988.