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**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

**Award No. 13815
Docket No. 13702
04-2-03-2-43**

The Second Division consisted of the regular members and in addition Referee Edwin H. Benn when award was rendered.

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

STATEMENT OF CLAIM:

“Claim of employees:

1. That the Burlington Northern Santa Fe Railway Company violated the current Agreement, effective April 1, 1983, as amended, in particular Rule No. 22, when, on or about November 1, 2001, the Carrier's managers denied Alvin Meemken his right to exercise his seniority to displace any junior employee on positions he was qualified to fill.
2. Accordingly, the Burlington Northern Santa Fe Railway Company should be ordered to allow Mr. Meemken to exercise his seniority in accordance with the provisions of Rule Nos. 13, 22 and 26 of the controlling Agreement.
3. That the Burlington Northern Santa Fe Railway Company cease and desist the improper actions, harassment and intimidation against Claimant Meemken.”

FINDINGS:

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

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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.

This claim arose as a result of the Carrier's abolishment of the Claimant's 7:00 a.m. to 3:00 p.m. electrician's position at the Minneapolis facility effective November 3, 2001 as a result of a force realignment and the Carrier's refusal to allow the Claimant to displace a junior employee on the 11:00 p.m. to 7:00 a.m. shift. The Carrier did not permit the Claimant to displace the junior employee because the Carrier was of the opinion that the Claimant was unable to perform all of the duties on that shift (particularly the assignment of inspections and repairs on traction motors) due to the Claimant's medical restrictions (allergic reactions) which are aggravated by such assignments.

The claim seeks no monetary relief. The record shows that rather than allowing the Claimant to displace to the 11:00 p.m. to 7:00 a.m. position, the Carrier accommodated the Claimant's medical condition and assigned him to another position on the 7:00 a.m. to 3:00 p.m. shift (as he worked before) which he was able to perform within his medical restrictions due to there being twice as many electricians on that shift. Given that the Claimant was accommodated and is working and is free to exercise his seniority anywhere else, we find this claim is moot.

AWARD

Claim denied.

ORDER

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This Board, after consideration of the dispute identified above, hereby orders that an Award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Dated at Chicago, Illinois, this 10th day of December 2004.