

The Second Division consisted of the regular members and in addition Referee Paul C. Carter when award as rendered.

Parties to Dispute: (Brotherhood Railway Carmen of the United States
(and Canada
(Missouri Pacific Railroad Company

Dispute: Claim of Employees:

1. That the Missouri Pacific Railroad Company violated Rule 12 of the controlling agreement January 17, 1983 when they refused to assign Senior Carman H. G. Morris to job posted on bulletin No. 2 at North Little Rock, Arkansas.

2. That the Missouri Pacific Railroad Company be ordered to assign Carman H. G. Morris to the job advertised on bulletin No. 2 and allow him a fair trial as required by Rule 12 and compensate him for all wage loss starting January 18, 1983 and continuing until violation is corrected; including all overtime hours lost during this period.

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 employees 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 waived right of appearance at hearing thereon.

The dispute herein involves the filling of a Wrecker Engineer position at Carrier's Little Rock, Arkansas, facility.

Rule 104 (a) of the applicable Agreement reads:

"Regularly assigned wrecking crews will be composed of carmen and helpers and where sufficient men are available preference will be given to those employees assigned to the repair track on the first shift, second shift and third shift in that order, and will be paid for such service under Rule 7, except that the proper officer may select wrecking engineers from any class of mechanics in service giving preference to mechanics employed as carmen. Meals and lodging will be provided by the Company while crews are on duty in wrecking service."

On January 10, 1983, a position of Wrecker Engineer at North Little Rock was bulletined. The Claimant herein was senior to the Carman who was assigned to the position. The Organization agrees that the Carrier had the right to appoint the Wrecker Engineer, but contends that as it chose to bulletin the position under Rule 13 (now Rule 12), it was obligated to fill the position in accordance with that rule, which provides in part:

"RULE 12. FILLING NEW POSITIONS AND VACANCIES.

"(a) New jobs created and vacancies will be bulletined and the oldest employe in point of service shall, if sufficient ability is shown by fair trial, be given preference in filling.

(d) An employe exercising his seniority rights under this rule will do so without expense to the railroad; if after a fair trial of not to exceed thirty days he fails to qualify for the new position, he may return to his former position."

We cannot agree with the contention of the Organization. Rule 104(a) is a specific rule giving the Carrier the right to select Wrecking Engineers. The Carrier was not deprived of its specific right to "select" by the needless bulletining of the Wrecking Engineer position, which the Carrier now explains:

"Ordinarily when a vacancy occurs on a position which is subject to Carrier selection, the existence of the vacancy thereon is advertised under the normal advertisement procedure so as to make all involved aware of the vacancy and to permit employes to express their desire to be considered for selection by submitting a bid for the vacancy in the same manner as they would for a normal bid job."

In the on-property handling the Carrier contended that the Carman junior to Claimant was selected as Wrecking Engineer as he "has been an extra member of the wrecking crew several years and he is fully aware of the responsibility of wrecking engineer as he has operated the derrick".

Rule 104(a) being a specific rule, it would properly take precedence over general rules pertaining to the filling of positions. The position here involved was filled in accordance with the specific provisions of Rule 104(a). The claim will be denied.

A W A R D

Claim denied.

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Award No. 10632
Docket No. 10534
2-MP-CM-'85

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 30th day of October 1985.