

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

(Brotherhood Railway Carmen of the United States
(and Canada
PARTIES TO DISPUTE: (
(Birmingham Southern Railroad Company

STATEMENT OF CLAIM:

1. That the Birmingham-Southern Railroad Company, hereinafter referred to as the Carrier, violated the Agreement, particularly Article 25(d), when on August 10, 1984, it forced Carman S. W. Brent, hereinafter referred to as the Claimant, to change jobs consisting of different rest days thereby causing him to lose two (2) days work, as a result of said change.

2. And consequently, the Carrier should be ordered to compensate Claimant in the amount of sixteen (16) hours at straight time Carman rate of pay due to said violation.

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 waived right of appearance at hearing thereon.

Claimant is employed as a Carman by Carrier at its Birmingham, Alabama facility. On August 10, 1984, Claimant was assigned to a vacant position that had been bulletined, but for which no bids had been received; Claimant accordingly was transferred from a position with Saturday and Sunday rest days to a position with Monday and Tuesday rest days. Claimant therefore had four consecutive days off, Saturday through Tuesday. The Organization thereafter filed a claim on Claimant's behalf, contending that because of the new assignment, Claimant lost two days of work. Moreover, the Organization claimed that the Carrier violated the Agreement when it disregarded the seniority rights of the Claimant and assigned him to a position to which a junior employee should have been assigned.

This Board has reviewed the evidence in this case, and we find that the Organization has not met its burden of proof to support the claim. Therefore, the claim must be denied.

The two junior employees had less than one week of service in the department and were still part of an orientation program. The record indicates by a document signed by the Carrier's Superintendent of Maintenance that the Organization's previous general chairman had orally agreed with the Carrier that employees would complete a trial period prior to being allowed or required to exercise their seniority to a regular assignment. The record contains no denial by the previous general chairman that the Agreement was in effect at the time of this dispute, even though a new general chairman had taken over the position.

As stated above, the burden in cases of this type is on the Organization. The Organization has not provided enough proof to sustain its claim.

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 6th day of April 1988.