

The Second Division consisted of the regular members and in addition Referee Marty E. Zusman when award was rendered.

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

STATEMENT OF CLAIM:

1. That the Southern Pacific Transportation Company (Eastern Lines) violated the provisions of the Agreement of August 13, 1982, effective September 1, 1982, when they arbitrarily refused to permit Carman L. V. Bach the right to displace a temporarily promoted mechanic at Lafayette, Louisiana following his request made on May 8, 1986.

2. That accordingly, the Southern Pacific Transportation Company (Eastern Lines) be ordered to compensate Carman Bach beginning on May 16, 1986, and thereafter on a continuous basis, until he is given his rightful position at Lafayette, Louisiana.

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.

In the record of the instant case, Claimant was a qualified journeyman Carman who had been furloughed. In August 1985, the vacant Carman's position at Lafayette was offered to Claimant and was refused. It is not denied that he was working and did not wish to relocate at that time. Inasmuch as the furloughed Claimant rejected the Lafayette position, the Carrier hired and trained a Carman Apprentice for said position.

By letter of May 8, 1986, Claimant requested the displacement of the Carman apprentice hired for the Lafayette Yard position. Carrier denied his request on the grounds that he had previously turned down the position and that it was no longer open. Given the narrow argument raised on property, the

only relevant language of the Agreement herein considered reads in pertinent part that:

"...the senior furloughed employee, upon written notice to the appropriate Superintendent or Plant Manager, seven (7) days prior, may displace the junior temporarily promoted mechanic at that seniority point. (Copy of request to be furnished Organization Local Chairman and General Chairman)"

This Board is restricted to the evidence and argument on property. Finding no evidence in the record on property of any Carrier argument other than the prior refusal, the Board must reject the Carrier's position. There is nothing in the Agreement that states that by Claimant's failure to accept in August he "relinquished any right to that job." We must hold that Claimant was a qualified journeyman Carman, was available, was the senior furloughed employee and did follow the notice requirements of the Agreement provision. Based on the record before us, the Claim must be sustained through July 2, 1986, when Claimant started work at Beaumont, Texas.

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: 
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 31st day of August 1988.