

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

(International Brotherhood of Electrical Workers
PARTIES TO DISPUTE: (
(Union Pacific Railroad Company

STATEMENT OF CLAIM:

1. That the Union Pacific Railroad Company violated the controlling agreement, Schedule of Rules dated November 1, 1976, on the date of January 21, 1986, particularly Rule 27 and Carrier's Proposal No. 6 when they failed to notify the General Chairman and hired a new employee while furloughed electricians were available for work.

2. That accordingly, the Union Pacific Railroad Company be ordered to compensate senior furloughed Electrician M. A. Tockey, MP&M Department, from the date Signalman A. J. Barton was hired in an equal amount earned by Mr. Barton plus interest at the prime rate and continuing to earn the prime rate until correction has been made.

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.

In the instant dispute the essential facts are not contested. The Organization and Carrier agree that a temporary vacancy existed for a Maintenance of Way Department Electrician at Green River, Wyoming. Carrier filled the vacancy with a furloughed Signalman at that location, rather than with Claimant who was a furloughed Mechanical Department Electrician at North Platte, Nebraska.

The Organization throughout its claim on the property and in its Submission before this Board contends that Rule 27 and Carrier's Proposal No. 6 were violated when Carrier used a new employee without applicable training and qualifications to do its work. As it stated: "A signalman does not automatically qualify as an Electrician... to use one in place of the other merely because they are in furloughed status carries no weight whatsoever." It contends that Rule 27 was violated. On this point, we must find for the

Carrier. Rule 27 does not relate to temporary vacancies and does not require (as evidenced by Appendix 20) the Carrier to utilize Claimant. In addition, a careful reading of the language of Proposal No. 6 does not support the Organization in the instant case. There is insufficient probative evidence of past practice in the record to support the Organization's interpretation of the meaning of those Rules.

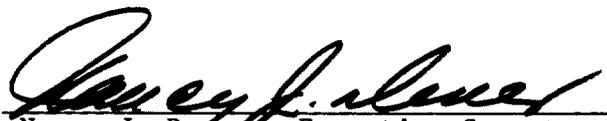
As this Claim was advanced to its final stages on the property other Rules surfaced. While the entire Agreement is before this Board to give substance and understanding to the Claim, the claim asserts a violation of Rule 27 and Carrier Proposal No. 6. Rule 29 refers to reducing forces and Rule 19 to jurisdictional disputes. The instant case revolves around a temporary vacancy. Finding no explicit language limiting Carrier from filling the temporary vacancy as it did, and under these particular circumstances, we must deny the Claim.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 15th day of March 1989.