

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

PARTIES TO DISPUTE: (Brotherhood Railway Carmen/ A Division of TCU
(Southern Pacific Transportation Company (Eastern Lines)

STATEMENT OF CLAIM:

1. That the Southern Pacific Transportation Company (Eastern Lines) violated the controlling agreement, particularly Rules 15 and 28, when Carman T. E. Haigood was deprived of his seniority right to choice of vacation relief job beginning June 25, 1987, Dallas, Texas.

2. That accordingly, the Southern Pacific Transportation Company (Eastern Lines) be ordered to compensate Carman Haigood at the time and one-half rate for each day he is deprived of his right to choose the vacation job he wishes to work in line with his seniority. This claim will start June 26, 1987 continue until correction is 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 events giving rise to the instant case, the Carrier had bulletined two regular relief Carmen positions to be used in filling positions of other employees while they were on vacation.

Claimant was the senior employee and the Organization noted to the Mechanical Foreman that Claimant "would have the right to choose which vacation he wanted to work." Although the Mechanical Foreman agreed, the circumstances were that when the situation arose, a different Mechanical Foreman made the assignment. Claimant was not permitted to choose the vacation relief he desired, but was rotated to the next assignment. That assignment worked 11 P.M. to 7 A.M., while the junior employee worked a first trick vacation. The Claimant preferred to avoid the 11 P.M. to 7 A.M. assignment and chose the vacation relief assigned to the junior employee.

It is the position of the Organization that Claimant was denied his seniority rights and that Carrier violated Rules 15 and 28 of the Agreement. The Organization argues that Claimant's seniority rights are denied when he is not permitted the choice of which vacation relief he chooses to work.

The Carrier denies any violation of the Agreement noting that the Claimant was awarded the position based upon his seniority. It is the position of the Carrier that no Rule of the Agreement provides support for the right of the Claimant to select the vacation relief work that he wishes. Carrier argues that there are no restrictions in the assignment of vacation relief to employees who bid on the regular relief Carmen positions which are the subject of this instant dispute.

After a careful review of the Agreement Rules, the Board must deny the Claim. Seniority rights are important rights protected by negotiated provisions of the Agreement. There is nothing in either Rule 15 or Rule 28 which provides for the rights herein claimed by the Organization. The Board cannot provide rights which were not negotiated by the parties. The Board finds no language requiring the Carrier in these circumstances to give the Claimant preference to pick the vacation relief positions he chooses to work. Based on this record and Agreement language, we have no alternative but to deny the Claim.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Defer - Executive Secretary

Dated at Chicago, Illinois, this 25th day of October 1989.