

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 11933
Docket No. 11690
90-2-88-2-184

The Second Division consisted of the regular members and in addition Referee George S. Roukis when award was rendered.

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

STATEMENT OF CLAIM:

1. That the Union Pacific Railroad Company violated the controlling agreement, particularly Rule 27, Carrier's Proposal No. 6 - Letter of Interpretation dated August 26, 1960, and Ruling No. 19, when they arbitrarily assigned a junior electrician to a permanent position while denying Electrician G. R. Nelson his rights under the terms of the agreement.

2. That accordingly, the Union Pacific Railroad Company be ordered to compensate senior furloughed Electrician G. R. Nelson an equal amount of time paid to Junior Electrician (Harold Chapman) assigned to a permanent position without permitting the Senior Electrician G. R. Nelson the right to exercise his seniority in line with the controlling agreement, Rule 27 to include all overtime, benefits and at the prime rate of interest, North Platte, Nebraska.

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.

This case relates to an asserted violation of Rule 27 of the Schedule Agreement, Carrier's Proposal No. 6 - Letter of Interpretation dated August 26, 1960, and Ruling 19 requiring Carrier's officers and supervisors to handle matters of wages and working conditions in conformity with the Schedule Agreement. Specifically, during the period February 20, 1987, through April 6,

1987, an employee junior to Claimant in seniority was successively assigned to cover several permanent assignments. He was allowed in effect to ride several bulletined positions. Both employees were on furloughed status prior to the assignments. There is no dispute that Claimant did not want to be assigned to a temporary position and hence indicated a desire not to participate in extra and relief work. The other employee indicated a desire to participate in such work. There is a dispute regarding whether the junior employee was assigned to a permanent position prior to a recall letter being sent to Claimant.

On February 20, 1987, the junior employee reported to work and rode Position No. E-5217. The regular incumbent of this position was on medical leave. On February 25, 1987, the junior employee was assigned to Position No. ER1223 and he rode this position until March 4, 1987. He was then assigned to Position EF 0212 and rode this position until circa March 11, 1987. On this date, Bulletin No. 400 assigned a regular employee to this position and the junior employee was assigned to ride Position No. E 1235. On March 18, 1987, Bulletin No. 406 assigned Position No. E 1235 to another regular employee and the junior employee was assigned to ride Position No. ER 5313. He remained on this position until April 6, 1987, when said position was abolished. In the interim period a regularly assigned employee resigned from service at the close of shift on Friday, March 20, 1987, and a permanent position became vacant. By letter dated March 25, 1987, Claimant was advised to report to the Shop Superintendent on or before April 6, 1987, since his seniority entitled him to the vacant position. The record shows that Claimant received this letter on March 27, 1987. In response, via a hand-written letter, Claimant requested a voluntary leave of absence effective April 6, 1987.

It was the Organization's position that even though the junior employee requested temporary work, he was assigned to a permanent position prior to a recall letter being sent to Claimant.

Carrier maintains that Rule 27 is inapplicable since it applies to force reductions and recalls. Furthermore, it contends that it fully complied with Proposal No. 6, since the junior employee was assigned temporary relief work pursuant to the requirements of this proposal. It also points out that the Organization has not shown how Ruling 19 governs or applies to these facts.

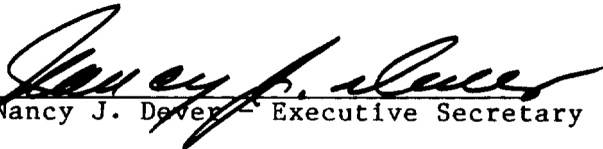
In considering this case, the Board concurs with Carrier's position. Since the furloughed junior employee was assigned to positions occupied in the first instance by regularly assigned employees, and since it was the practice at the North Platte Diesel Shop to bulletin temporary vacancies so that regularly assigned employees could temporarily occupy more preferable assignments, the recalled furloughed employee would be assigned the remaining position left unoccupied. Thus, the term riding the bulletins. Since these movements took place within the context of a fixed complement of regularly assigned employees, there would be no actual permanent position vacancy until one of the regularly assigned positions became vacant. This occurred on March 20, 1987, when a regularly assigned employee resigned from service. His resignation left a permanent vacancy in the literal sense of the term. Carrier promptly offered Claimant a permanent position on March 25, 1987, which was in accordance with the seniority recall provisions of the Agreement. There was no violation of the provisions cited by the Organization.

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 31st day of October 1990.