

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Award No. 13751

Docket No. 13658

03-2-02-2-17

The Second Division consisted of the regular members and in addition Referee Carol J. Zamperini when award was rendered.

**(International Brotherhood of Electrical Workers
PARTIES TO DISPUTE: (
(Canadian Pacific Railroad Company (Soo Line Railroad)**

STATEMENT OF CLAIM:

- "1. That in violation of the current Agreement, Reduction of Force Rule dated May 24, 1988, the CP/Soo Line Railroad Company denied Telecommunication Electrician David E. Stoa displacement rights to a position which David E. Stoa had the contractual right to assume.**
- 2. As a result of the CP/Soo Line Railroad Company's actions, David E. Stoa was forced into the status of furloughed Electrician, which caused the loss of one (1) week's income. In addition, David E. Stoa was forced to bid onto a position that he did not want but was forced to take in order to remain an active Employee. This action also caused David E. Stoa to assume that position which was a lower rate of pay than his previous position.**
- 3. That the CP/Soo Line Railroad Company be directed to place David E. Stoa on his rightful position and compensate him for all lost wages, rights, benefits and privileges which were adversely affected as a result of CP/Soo Line Railroad Company's denial of David E. Stoa's bump."**

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 employee 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 were given due notice of hearing thereon.

The Claimant was displaced from his position of Communications Construction Foreman where the Carrier realigned its forces. The Claimant filed a displacement notice reflecting his intention to displace a junior electrician holding a position in a lower position class.

The Carrier refused to honor the Claimant's displacement notice because an existing position within the Claimant's position class was vacant as of the date of the Claimant's proposed displacement. The Carrier asserted that the Agreement only allows for displacement to a lower class position if there are no existing open positions available within the employee's existing class. The Claimant averred that his seniority allowed him to displace any employee with less seniority and irrespective of position class.

After reviewing the evidence and relevant portions of the Agreement, the Board determines that the Claimant was obligated to fill the existing vacancy within his class as opposed to displacing to a lower class position. Thus, the Agreement was not violated when the Carrier refused to honor the Claimant's displacement notice. The Board must therefore deny the claim and associated request for relief.

AWARD

Claim denied.

Form 1
Page 3

Award No. 13751
Docket No. 13658
03-2-02-2-17

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Dated at Chicago, Illinois, this 30th day of June 2003.