

The Second Division consisted of the regular members and in addition Referee John B. LaRocco when award was rendered.

Parties to Dispute: { United Steelworkers of America  
{ Lake Terminal Railroad Company

Dispute: Claim of Employees:

- (1) This time claim is instituted in behalf of Car Repairman's Helper, G. Murray, whose seniority rights were violated when he was assigned (forced) to 3 pm to 11 pm shift with Thursdays and Fridays off while three (3) temporary employees with no seniority were permitted to remain on the 7 am to 3 pm shift with Saturdays and Sundays off, (the shift that Mr. Murray was and is entitled to).
- (2) It is requested that the Carrier compensate Mr. Murray eight (8) hours pay at the Car Repairman Helper's rate for each day beginning with July 26, 1980 and continuing on a daily basis until such a time as this issue is resolved, in addition to all other earnings or benefits, as penalty for this outrageous and premeditated violation of his seniority.
- (3) It is also requested that Mr. Murray be compensated at one and a half times the basic rate for his services on July 27, 1980, as allowed under Rule 19(c).

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 employe 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.

Claimant holds a seniority date of April 23, 1979 as a Car Repairman Helper. Prior to July 26, 1980, Claimant was assigned to the first shift. In June, 1980, the Carrier hired three new employes and assigned them to the first shift. On July 17, 1980, the Carrier advertised a car repairman helper position on the second shift. No bids were received. The Carrier then assigned Claimant who was the junior employe on the applicable seniority roster to work the second trick position which had been advertised. Claimant has been working the second shift position since July 26, 1980.

Claimant seeks eight hours of pay for each day that he is compelled to work the second trick position. The Organization argues that Claimant had a

right to retain his first shift position and that one of the newly hired employes should have been forcibly assigned to work the second trick. The Carrier maintains that it had to assign the most junior employe on the applicable seniority roster to the second shift position when no bids were received pursuant to Rule 30(c) of the scheduled Agreement. Further, the Carrier contends that Rule 26(a) gives it the exclusive and absolute right to assign probationary and temporary employes.

According to Rule 26(a), the new employes hired in June, 1980 did not accumulate any seniority until they completed a probationary period measured by ninety calendar days of service. In July 1980 when no worker bid on the second trick helper position, the new employes were still within their probationary period of service. Rule 30(c) of the scheduled Agreement states:

"(c) When a vacancy, promotion or new position is advertised by bulletin and no application is received, the junior qualified employe in the department in which the job was advertised will be required to accept such position."  
(Emphasis added)

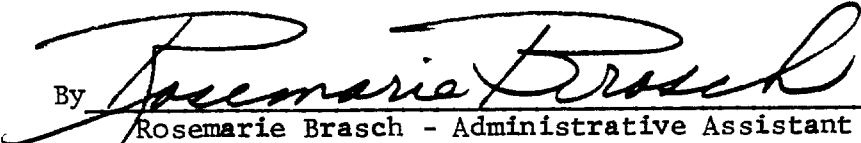
The term "junior qualified employe" refers to an employe's relative standing on the relevant seniority roster. Since the new employes had not completed their probationary period at the time the second shift position was bulletined, they had not yet accumulated any seniority within the context of Rule 30(c). Thus, the Carrier properly complied with Rules 26(a) and 30(c) when it assigned Claimant, who was the junior qualified employe, to the second trick position on July 26, 1980.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest: Acting Executive Secretary  
National Railroad Adjustment Board

By   
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 2nd day of June, 1982.