

The Second Division consisted of the regular members and in addition Referee Robert W. McAllister when award was rendered.

(Brotherhood Railway Carmen of the United States
(and Canada
Parties to Dispute: (
(Union Pacific Fruit Express Company

Dispute: Claim of Employees:

1. That the Union Pacific Fruit Express Company violated the controlling agreement, particularly Rule 19 (a) and (c), when they arbitrarily failed to assign Carman L. L. Waldemer to work vacation relief on August 17 through 20, 1982 and instead assigned Carman R. Harn, who was junior to Carman Waldemer, to fill the assignment at Pocatello Shops, Pocatello, Idaho.

2. That accordingly, the Union Pacific Fruit Express Company be ordered to compensate Carman L. L. Waldemer a day's pay for each of the dates Carman R. Harn worked (August 17 through 20, 1982) at the rate earned by Carman Harn on these days.

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.

The Claimant, Carman L. L. Waldemer, was, on July 26, 1982, employed at Pocatello, Idaho, for vacation relief along with two other Carmen. All three were furloughed employees. On July 27, 1982, a fourth Carman, R. Harn, also on furlough, was hired for Vacation Relief. The Claimant returned to his home in Nampa, Idaho, some 350 miles away. Carman R. Harn was, thereafter, called on August 17, 18, 19 and 20, 1982, to fill in for individuals on sick leave. This Claim then is based on the Claimant's seniority which was senior to R. Harn's.

The Organization argues that Rule 19 (a) and (c) of the Controlling Agreement governs requiring seniority to apply in both a reduction in force and recall. The Carrier contends this is an improper application of the Agreement. It asserts that Appendix A, Section 12 (c) is the applicable Agreement provision which reads:

"(c) A person other than a regularly assigned relief employee temporarily hired solely for vacation relief purpose will not establish seniority rights unless so used more than 60 days in a calendar year. If a person so hired under the terms hereof acquires seniority rights, such rights will date from the day of original entry into service unless otherwise provided in existing agreements."


Based on the above, the Carrier insists the Claimant never established seniority as a vacation relief employee and was not furloughed when informed on August 13, 1982, that his vacation relief services were not needed.

This Board agrees with the Carrier's position. The Claimant was not a regularly assigned relief employee. He was temporarily hired to work vacation relief and had been used no more than 15 days as such. Seniority rights could not be acquired until he worked more than 60 days.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: 
Nancy J. Beyer - Executive Secretary

Dated at Chicago, Illinois, this 16th day of April 1986.