

The Second Division consisted of the regular members and in addition Referee Eckehard Muessig when award was rendered.

(Brotherhood Railway Carmen of the United States
(and Canada
Parties to Dispute: (
(Missouri Pacific Railroad Company

Dispute: Claim of Employees:

1. That the Missouri Pacific Railroad Company violated the agreement of Rules 22(a), 24(a), 117 and 137 revised September 1, 1981, when they failed to assign Carmen L. R. Foster, W. W. Martin and J. L. Taylor to fill positions at Chester, Illinois and Carmen junior in seniority at St. Louis Terminal were assigned.

2. That the Missouri Pacific Railroad Company be ordered to compensate Carmen L. R. Foster, W. W. Martin and J. L. Taylor starting July 29, 1983, all monies and benefits they are being deprived of until this violation is corrected.

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.

The essential facts in this dispute reveal that the two Carmen positions at Chester, Illinois, were bulletined on July 21, 1983. On that same date, one existing Carman position was abolished and was readvertised because of a change in the shift and off days. Only one person bid on these positions and was assigned to one of the three vacancies. The Carrier then assigned two senior furloughed Carmen who had transfer requests on file, pursuant to Rule 22 of the Parties' Agreement, to the remaining positions.

It is unrefuted that two of the Claimants, Carman Foster and Taylor, were furloughed but had not executed transfer forms pursuant to Rule 22. These two Claimants, by their choice, relinquished rights to transfer to other locations. We agree with the Carrier's construction of the Rules that these two employees, although senior to the employees placed in the positions, were not entitled to be placed. Consequently, their Claims are denied.


With respect to Carman Martin, the record shows that he properly filed a transfer form which was on file, and that he was belatedly placed in one of the three Chester positions on August 12, 1983. Therefore, for Claimant Martin, we sustain Part I of his Claim. With respect to Part II of the Claim, Claimant Martin is to be compensated all monies and benefits he would have received if he had been assigned to fill the position at issue at the proper time.

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:



Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 26th day of August 1987.