

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Albert L. McDermott, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

ERIE RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

(1) The Carrier violated the effective Agreement beginning on August 22, 1955, and continuing through September 10, 1955, when it assigned junior Work Equipment Repairman R. R. Sippy to perform work requiring considerable overtime and failed to utilize the services of senior Work Equipment Repairmen for such overtime work:

(2) Senior Work Equipment Repairman Charles W. Terrill now be allowed the exact amount of monetary loss suffered account of the violation referred to in part one (1) of this claim.

EMPLOYEES' STATEMENT OF FACTS: Due to heavy rains prior to August 22, 1955, large quantities of debris had accumulated around and about the Carrier's property at Narrowsburg, New York. To remove this waste material, the Carrier utilized the services of certain Roadway Machines such as Bulldozers and Crawler Cranes and, in order to have a Roadway Equipment Repairman available to make repairs to these machines as necessary, junior Roadway Equipment Repairman, D. R. Sippy was instructed, during his regular tour of duty on August 22, 1955, to obtain the necessary tools and equipment and to report to Narrowsburg, New York for this assignment. Junior Work Equipment Repairman Sippy was permitted to make considerable overtime while filling this assignment from August 22, 1955, through September 10, 1955.

Senior Work Equipment Repairman, Claimant Chas. W. Terrill, was available, qualified and willing to have accepted this work assignment, had the Carrier so notified him.

Claim as set forth herein was filed; the Carrier denying the claim throughout all stages of handling.

can it render an Award that would have such effect. Award 6757. See, also Awards 4763, 6828, 7093.

Based upon the facts of record, the claim should be denied for the following reasons:

1. Claimant did not and does not possess fitness and ability to perform the work which he claims.
2. Work Equipment Repairmen have system seniority. There is no rule or understanding which permits a repairman to pick his work.
3. Under past rulings of this Board, whether sound or unsound, seniority in a particular class applies within one particular gang or unit unless otherwise restricted by rule. Claimant was not a member of Repairman Sippy's gang.
4. The agreement has not been violated.

(Exhibits not reproduced.)

OPINION OF BOARD: Claimant, a senior Work Equipment Repairman seeks the exact amount of monetary loss suffered as a result of the Carrier having assigned a junior Work Equipment Repairman to perform work which followed in the wake of extensive damage inflicted by Hurricane Diane to the Carrier's property.

Junior Work Equipment Repairman Sippy and Claimant were headquartered at Meadville, Pennsylvania. On August 22, 1955 Sippy was ordered to report to the damaged areas, 400 miles east of Meadville. He remained there up to and including September 10, 1955. The assignment resulted in Sippy working substantial overtime. During this period Claimant worked every day of his regular assignment for which he was available at Meadville. On September 26, 1955 Claimant filed his claim alleging violation of the seniority provision of the current Agreement.

Carrier had the right to assign Sippy to the particular job. There is nothing in the Agreement which required the Carrier to dispatch the Claimant, a senior Employee, to the scene to perform the overtime which happened to flow from the assignment.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier and the Employees involved in this dispute are respectively carrier and employees within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Carrier did not violate the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 26th day of January 1962.