



Award No. 17203

Docket No. MW-17514

NATIONAL RAILROAD ADJUSTMENT BOARD

**THIRD DIVISION
(Supplemental)**

Robert A. Franden, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES
SOUTHERN PACIFIC COMPANY (PACIFIC LINES)**

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

- (1) The Carrier violated the Agreement when it assigned Track Laborer Dave Martinez, instead of Track Laborer Pedro Munoz, to fill a student track foreman's position on the Eastern Seniority District. (System Case No. MofW 148-263)
- (2) The Carrier further violated the Agreement when it failed to reimburse Track Laborer Dave Martinez for personal expenses incurred during the period he held the position of student track foreman.
- (3) Track Laborer Pedro Munoz be allowed the difference between the track laborer's rate he received and the student foreman's rate of pay, retroactive to 60 days from August 17, 1966, and continuing thereafter for each day that the violation referred to in Part (1) of this claim continues to exist.
- (4) Track Laborer Dave Martinez be returned to his home seniority district (Western District) and be reimbursed for all personal expenses incurred because of the violation referred to in Part (2) of this claim."

EMPLOYEES' STATEMENT OF FACTS: Claimant Dave Martinez has established and holds track laborer's seniority on the Western Seniority District of the Tucson Division and Claimant Pedro Munoz has established and holds track laborer's seniority on the Eastern Seniority District. Their seniority is confined to their respective seniority districts.

On June 5, 1966, the Carrier assigned Track Laborer Dave Martinez, who does not have any seniority on the Eastern Seniority District, to fill a student track foreman's position on said district. Track Laborer Pedro Munoz, with track laborer's seniority on the Eastern Seniority District dating from August 4, 1927, possessed the necessary qualifications and his seniority entitled him to have been assigned to fill this position.

The Carrier failed to reimburse Track Laborer Dave Martinez for personal expenses incurred during the period he was held away from his

By letter dated November 8, 1966 (Carrier's Exhibit "C"), Petitioner's General Chairman appealed the claim in behalf of Claimant Munoz to Carrier's Assistant Manager of Personnel and at that time submitted a claim in behalf of Claimant Martinez, ". . . that he be reimbursed for all expenses incurred by him as a result of Carrier's violation referred to in Part 1 of our Statement of Claim." By letter dated December 27, 1966 (Carrier's Exhibit "D"), Carrier's Assistant Manager of Personnel denied the claims.

(Exhibits not reproduced)

OPINION OF BOARD: The facts in this case are not in dispute. The Organization claims that the Carrier violated the Agreement when it transferred a track laborer (Martinez) holding seniority in one seniority district to another seniority district and established him in the position of student foreman at that point. Claimant Munoz held seniority in the seniority district into which Claimant Martinez was transferred. Claimant Munoz is claiming the difference between track laborer rate of pay and student foreman rate of pay for the period of the duration of the alleged violation. Claimant Martinez asks to be reimbursed for all personal expenses incurred during the period he held the position of student foreman off his home seniority district.

For the reasons set out in Award No. 17202, we will sustain the claim.

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 Agreement was violated.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD

By Order of Third Division

ATTEST: S. H. Schulty

Executive Secretary

Dated at Chicago, Illinois, this 13th day of June 1969.

CARRIER MEMBERS' DISSENT TO AWARDS 17202 AND 17203,

DOCKETS MW-17513 AND MW-17514

REFEREE ROBERT A. FRANDEN

For the reasons set forth by Carrier Members in their dissent to Award 15930 (Referee Ives) we dissent.

/s/ Harry S. Tansley
H. S. Tansley

/s/ R. A. DeRossett
R. A. DeRossett

/s/ C. H. Manoogian
C. H. Manoogian

/s/ J. R. Mathieu
J. R. Mathieu

/s/ C. L. Melberg
C. L. Melberg