

Corrected Copy



Award Number 17473

Docket Number MW-17815

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Robert C. McCandless, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF MAINTENANCE OF WAY
EMPLOYES**

ILLINOIS CENTRAL RAILROAD COMPANY

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

- (1) The Carrier violated the Agreement when, on or about August 17, 1966, it required Paint Foreman A. E. Bissell, Paint Gang No. 325, to exchange positions with a paint foreman assigned to headquarters at 12th Street, Chicago, Illinois. (System Case No. 435/C-48-P-66).
- (2) Paint Foreman A. E. Bissell now be allowed 'room and board beginning on or about August 17, 1966, including travel time and travel expense, either public or auto mileage from his gang headquarters at LaSalle to Chicago each weekend, or expenses in Chicago for Saturday, Sunday and holidays' because of the violation referred to in Part (1) of this claim."

EMPLOYEES' STATEMENT OF FACTS: The claimant was regularly assigned by bulletin as foreman of Paint Gang No. 325, with headquarters designated as camp cars. He was assigned to a work week extending from Monday through Friday (Saturdays and Sundays were rest days).

On or about August 17, 1966, the Carrier arbitrarily instructed and required the claimant to leave his assigned position as foreman of Paint Gang No. 325, which was working at LaSalle, Illinois, and to assume the position of foreman of the paint gang permanently headquartered at 12th Street, Chicago, Illinois. Simultaneously therewith, the foreman of the 12th Street paint gang, who had been awarded that position by bulletin, was required to leave his position thereat and to assume the position of foreman of Paint Gang No. 325.

The claimant was not compensated for the time he consumed traveling between LaSalle, Illinois and Chicago, Illinois on week-ends. Neither was he reimbursed for the expenses he incurred in traveling between these two points on week-ends nor for the expenses he incurred for meals and lodging while involuntarily headquartered at Chicago, Illinois.

Claim was timely and properly presented and handled by the Employees at all stages of appeal up to and including the Carrier's highest appellate officer.

The Agreement in effect between the two parties to this dispute dated September 1, 1934, together with supplements, amendments and interpretations thereto is by reference made a part of this Statement of Facts.

(Exhibits Not Reproduced)

CARRIER'S STATEMENT OF FACTS: Mr. A. E. Bissell was assigned to the position of paint foreman on the Chicago Division of the Illinois Central. Seniority of employees assigned to paint gangs is not confined to any specific location but extends to every point on the division on which they are employed. The claimant does not have a specific headquarters, but travels to various points on the division. During August, 1966, Mr. Bissell was working as the paint foreman on Paint Gang 325 which was then located near LaSalle, Illinois. The assigned work was to spray paint a large steel bridge over the Illinois River.

During the course of this assignment, an inspection report regularly submitted by the office of the Engineer of Buildings and Bridges disclosed that the spray painting of the steel work on the bridge was not being properly performed by Paint Gang 325. The gang failed to do the necessary cleaning of the steel before painting. In fact, several bird nests were found on the bridge sprayed over with paint. It was apparent that Foreman Bissell was ignoring his primary function of seeing that the work was preformed properly.

Rather than discipline him, the company asked the claimant to work as a foreman at Chicago on August 17, 1966. Another foreman was assigned to supervise the project at LaSalle. Mr. Bissell had worked in Chicago on different occasions throughout his employment on the Chicago Division. Insofar as the company is aware, Mr. Bissell did not object to the change and voluntarily agreed to work in Chicago. The correspondence is attached as Company's Exhibit A.

(Exhibits not reproduced)

OPINION OF BOARD: Employees have advanced their claim here on the basis that when Carrier effected a "trading of positions" between two Paint Gang foremen on August 17, 1966, they violated the existing Agreement.

It is undisputed that each foreman obtained his respective position by virtue of his seniority and by the application of the Agreement's "bulletin" rules.

From the facts in the record, the Board agrees that "trading of positions" as was done in the instant case is not permissible under the Agreement. Therefore, Part One of this claim is sustained. (See Award 506).

However, the Board further finds that the Employees failed to support the claim for various expenses incurred by Claimant as sought in Part Two of this claim. As we said in Award 17103, we will not speculate as to what the actual expenses might have been. Consequently, that part of the claim is denied.

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 Employes involved in this dispute are respectively Carrier and Employes 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

Part One of the claim is sustained.

Part Two of the claim is denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 26th day of September 1969.