

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20370
Docket Number MW-20226

David P. Twomey, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(Missouri-Kansas-Texas Railroad Company)

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

(1) The Carrier violated the Agreement when it assigned D. W. Furr instead of James Rodriguez to position of machine operator (System file 200-123/2579-5).

(2) James Rodriguez be allowed the difference between what he would have been paid at the machine operator's rate and what he has been paid at the track laborer's rate because of the violation referred to within Part (1) of this claim.

OPINION OF BOARD: Claimant, with seniority date as track laborer of June 24, 1970, applied for position of machine operator, a classification in which he did not hold seniority. The position was assigned to another track laborer, also without seniority as a machine operator, with track laborer seniority date of July 23, 1970. Claim is that the promotion should have gone to Claimant, the senior track laborer, with claim based on Article 3, **Rule** 1, and Article 5, **Rule** 1 of the Agreement.

A review of the **claim** before us indicates that similar **claims** on this issue involving the same parties, similar factual circumstances and involving the same agreement rules were presented to the Board in Awards 19707, 20085, 20206, 20283 and 20291.

We concur in the rationale expressed in the above awards between these parties and find those awards controlling in this case. Therefore, we will deny 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 Employes involved in this dispute are respectively Carrier and Employes within the meaning of the Railway Labor Act, as approved June 21, 1934;

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

That the ~~Agreement~~ was not violated.

A W A R D

Claim denied.

NATIONAL ~~RAILROAD~~ ADJUSTMENT BOARD
By Order of Third Division

ATTEST:


Executive Secretary

Dated at Chicago, Illinois, this 23rd day of August 1974.