

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21915
Docket Number MW-21785

Irwin M. Lieberman, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(
(The Western Pacific Railroad Company

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

(1) The Agreement was violated when Water Service Maintainer George Saraba was used to perform work of the B&B Sub-department (System File No. B-Case No. 10063-1975-BMWE).

(2) Furloughed B&B Helper D. D. Trexler shall be allowed eight (8) hours' pay for each day during which B&B work was performed by Water Service Maintainer George Saraba, beginning with the date of Claimant Trexler's furlough on March 1, 1975 and continuing thereafter.

(3) The Carrier shall also pay to Claimant Trexler the daily subsistence allowance of \$2.20 for each claim date.

OPINION OF BOARD: The dispute herein is the companion case to the dispute resolved by Award 21751 in that the issues are identical. Both parties in their respective positions stated that the issues and facts of this case are similar to those in the earlier docket and in fact incorporated the submissions in the earlier matter in the record herein.

After examining the record and the Award in the earlier case, we do not find it to be in error. In fact, it should be emphasized that the findings as to seniority as well as the identification of separate crafts are indeed correct. We concur with the reasoning expressed in the earlier case with respect to both the question of jurisdiction as well as the merits.

The only issue remaining in this dispute is that of the status of Claimant. While we recognize the timing of his furlough with respect to the date of the "transfer of work" we do not agree with Carrier's conclusions. We agree with Petitioner that if other than B & B department employees were not used to perform the work in question, that work would have been available for claimant to perform. Hence, the claim must be sustained. However, since Claimant was recalled

to the B & B sub-department on July 17, 1975, the monetary claim will terminate as of that date. In addition, from the time he accepted work in the Track sub-department until he was recalled to the B & B sub-department, he will only receive the difference in pay from that which he received and the pay he would have earned had he remained in the B & B sub-department for the entire period, as specified in the claim heretofore, including daily subsistence allowance.

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 to the extent indicated in the Opinion, supra.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 28th day of February 1978.