

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Edward H. Suntrup, Referee

Award Number 24436
Docket Number MW-24542

PARTIES TO DISPUTE: { (Brotherhood of Maintenance of Way Employes
{ The Ann Arbor Railroad System
{ (Michigan Interstate Railway Company - Operator)

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

(1) The Carrier violated the Agreement when it assigned and used J. Roberson instead of C. R. Gaskill, Jr. to fill a temporary vacancy of Production Gang Foreman (Gang No. 1, Shift No. 1) March 30, 1981 through April 5, 1981, both dates Inclusive.

(2) Because of the aforesaid violation, Mr. C. R. Gaskill, Jr. be allowed pay at the Production Gang Foreman's rate for a number of hours equal to the total expended by Mr. J. Roberson in performing such work during the period mentioned in Part (1) hereof."

OPINION OF BOARD: It is the contention of the Claimant, C. R. Gaskill, that Carrier was in contravention of current Agreement Rule 3(b) and Rule 18(c) when it assigned, from March 13, 1981 to April 5, 1981, J. Roberson rather than himself the position of production foreman of Gang 1, Shift 1 as advertised by Bulletin 14, dated March 16, 1981.

The record before the Board shows that Carrier bulletined a number of permanent positions on March 16, 1981 and that Claimant, in accordance with Rule 18(d) bid on ten (10) of these positions in descending order of preference. Claimant's first choice was Bulletin No. 28, which was for Gang 2, Shift 1 and Claimant's third choice was Bulletin No. 14, which was for Gang 1, Shift 1 of two gangs which Carrier contemplated establishing on a twelve (12) hour a day basis for seven (7) consecutive days which were to be followed by seven (7) rest days. Mr. J. Roberson also bid, but as first choice, Bulletin 14. The record further shows that by order of the state of Michigan, owner of the Carrier, all Bulletins for the permanent positions in question were cancelled by the Carrier on April 3, 1981. Since, according to Carrier, Bulletin No. 14 position was to commence work on March 30, 1981 and Bulletin No. 28 was not to start work until April 5, 1981, Carrier claim is that the days Mr. Roberson worked the Bulletin No. 14 position, before the cancellation letter of April 3, 1981, plus the additional two (2) days "to clean up (what) the gang had started", were acceptable under the Agreement since the Carrier ultimately found itself in a situation which, because of the "directive of the state" (was) "outside the control of the Carrier". Quite simply, the Board sees the reasonableness of the position of the Carrier in this respect and denies the claim on its merits.

Of considerable concern to the Board, however, In the instant case is the state of the record presented to it. At no point in its **ex parte** submission does Organization clarify the starting dates of Bulletins 14 and 28 (nor of any of the other **Bulletins** introduced in fact or by reference) nor is this information found in the **original** Bulletins themselves. Only after considerable conjecture and puzzling over this case, supplemented. by the Board's analysis of the correspondence **accompanying** the case, does it finally become clear why relief was requested between the dates of **March** 30, 1981 and April 5, 1981 by the Organization in the first place. It is the **responsibility** of parties submitting cases to the Board to present to the Board submissions and supporting data which are **consistent with each** other and sensibly **decipherable**. The instant case did not reasonably **meet** that test and on those grounds alone provided the Board with justifiable **reason** to dismiss it, **any consideration** of merits notwithstanding.

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 not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: Acting Executive Secretary
National Railroad Adjustment Board

By Rosemarie Brasch
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 15th day of June 1983.

*Recd
9-7-83*