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NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25685

Docket Number MW-25383

Hyman Cohen, Referee

PARTIES TO DISPUTE: ( (Brotherhood of Maintenance of Way Employees  
(Southern Pacific Transportation Company

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

(1) The Carrier violated the Agreement when it failed to permit Apprentice Foreman S. **DeLeon** to displace a junior apprentice foreman at Houston, Texas beginning September 3, 1982 (System File MW-82-198/361-25-A).

(2) Because of the aforesaid violation, Apprentice Foreman S. **DeLeon** shall be allowed mileage expense (160 miles @ 23¢ per mile) for each work day he is required to operate his personal vehicle between El Campo, Texas and Houston, Texas.

OPINION OF BOARD: The Claimant established seniority as an Apprentice Foreman on August 11, 1980. He served in this position at Houston, Texas, until the position was abolished by the Carrier due to a reduction of force. In filing the instant claim, the Claimant seeks reimbursement for mileage expenses incurred for each work day he has been required to operate his personal vehicle between El Campo, Texas, and Houston, Texas.

After the Claimant's position was abolished, the Organization contends that the Claimant sought an Apprentice Foreman's position in the Houston area in order to work close to where he resides. According to the Organization, Chief Clerk Simmons told the Claimant that the only position he could bump into was on Extra Gang 215 located at El Campo, Texas, some 80 miles from Houston, Texas. As a result, the Claimant displaced Apprentice Foreman **Galvan** on September 3, 1982.

Based upon the record, and contrary to the Organization's position, the Claimant advised Chief Clerk Simmons that he wished to displace Apprentice Foreman **Galvan** on Extra Gang 215 because it was his understanding that Extra Gang 215 was a trailer gang; he also indicated to Chief Clerk Simmons that if he bumped on a gang in Houston, he would be bumped again, which would cause him to lose more time.

After the Claimant elected to bump into Extra Gang 215, in El Campo, Texas, he was not informed that two of the notices by the Carrier to abolish the Apprentice Foremen positions in Houston were rescinded. The Claimant also received information that there were two (2) junior Apprentice Foremen that he could have bumped in Houston, Texas. It should be underscored that the Claimant had already made his decision to bump into Extra Gang 215 because it was a **trailer** gang, and he had informed Chief Clerk Simmons of the reason why he would not want to bump into a gang in Houston.

The Claimant satisfied the terms of Article 3, Section 1 (b) because he exercised his seniority rights within 10 calendar days following the date of displacement. Moreover, having volunteered to bump into Extra Gang 215, the Claimant precluded himself from exercising his seniority rights under Article 3, Section 1 (a) which provides that senior employees affected when forces are reduced "may displace junior employees of their own rank or class on their seniority district."

**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

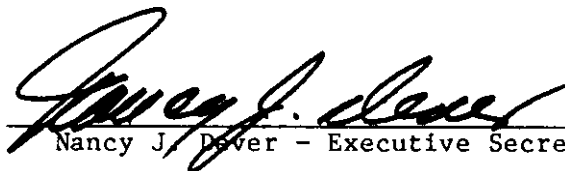
That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

  
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 14th day of November 1985.

