

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25973

Docket Number MW-25799

Marty E. Zusman, Referee

(Brotherhood of Maintenance of Way Employees

PARTIES TO DISPUTE: (

(National Railroad Passenger Corporation (Amtrak)

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

(1) The Carrier violated the Agreement when it refused to permit Trackman E. Quarles to displace a junior trackman at Bayview on December 5, 1981 (System Docket 426).

(2) The claimant shall be allowed eight (8) hours of pay at the trackman's rate for each work day beginning with the first day the Carrier refused to permit him to displace a junior trackman and continuing until he was recalled to service."

OPINION OF BOARD: Claimant Quarles was displaced on November 26, 1981. Under Agreement Rules Claimant had until December 6, 1981 to exercise his displacement right in bumping a junior employee or filing furlough papers. Claimant maintains that on December 4, 1981 he advised the Track Supervisor of his request to displace junior employee Young, but was refused. The Track Supervisor maintains that no such request occurred and that the only discussion revolved around a "bump in the tunnel" in which there were no junior employees. The Claimant submits a letter of endorsement and the Carrier raises numerous issues about the letter's authenticity, date of occurrence and meaning. All the salient "facts" in the case at bar are disputed.

This Board must therefore forego a discussion of the merits of the instant case because the facts are in contention and come to this Board as irreconcilable allegations. This Board is charged with resolving conflicts related to the application and interpretation of Agreements based on facts presented on property and not with determining facts. Unable to determine what occurred on property, this Board cannot move beyond its proper authority to find "fact." That is beyond our jurisdiction and for that reason this Board has no alternative other than to dismiss the Claim.

FINDINGS: That 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 dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:   
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 14th day of March 1986.