

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26254
Docket Number MW-25988

Irwin M. Lieberman, Referee

(Brotherhood of Maintenance of **Way Employees**

PARTIES TO DISPUTE: (

(The Belt Railway Company of Chicago

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

(1) The Carrier violated the Agreement when it assigned junior Laborer T. Weston instead of Laborer J. L. Jimenez to perform welder mechanic helper's work (Carrier's File 450-MofW).

(2) **Because** of the aforesaid violation, J. L. Jimenez shall be allowed the difference between what he earned as a laborer and what he should have earned as a welder mechanic helper beginning December 1, 1982, continuing until such time **as** the violation is terminated."

OPINION OF BOARD: This dispute embraces a number of serious allegations which could have significant implications for both parties as well as substantial cost to Carrier. As the Board views the matter, however, both sides failed to support their positions with adequate and accurate factual information, particularly with respect to Mr. Weston's work history during the critical period and the prior several months. For example, the Organization alleges that Weston was employed as a Truck Driver prior to the immediate period of the Claim and Carrier denies that this was his assignment. The facts are that this could easily be determined from Carrier's records. Other equally important factual matters are unclear, including the length of Weston's assignment (whether temporary **or not**) with the Repair Shop. On the present state of the record it would be improper to dismiss the Claim just as it would be equally wrong to sustain it, based on the serious consequences and importance to both parties. For that reason the matter is remanded to the property for a check of Carrier's records with respect to all factual questions (and the Organization should participate in defining the facts it wishes authenticated) and the Board will retain jurisdiction of the dispute and will endeavor to resolve the matter after the facts are established.

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 record is incomplete.

A W A R D

The dispute is remanded to the property for a check of Carrier's records in accordance with **the Opinion above**; the Board will retain jurisdiction of the dispute.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Neve - Executive Secretary

Dated at Chicago, Illinois, this 20th day of **March 1987**.