

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26728  
Docket Number MW-26192

Charlotte Gold, Referee

(Brotherhood of Maintenance of Way Employees  
PARTIES TO DISPUTE: (  
(Soo Line Railroad Company

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

1. The Agreement was violated when the Carrier permitted Extra Gang Laborer J. J. Kramer to displace Extra Gang Laborer D. A. Nivison on the B-1 Ballast Gang and retained junior employees on the B-1 Ballast Gang while Mr. Nivison was required to become furloughed (System File 8(a) 4(h) R-1/800-46-B-179).

2. As a consequence of the aforesaid violation, Mr. D. A. Nivison shall be compensated for all wage loss suffered from October 10 through October 20, 1983, both dates inclusive."

OPINION OF BOARD: As in Third Division Award 26578 involving the same Carrier and Organization, this dispute deals with the question of whether Carrier has correctly allowed seniority displacement on extra gangs. In that case, the Board held that Schedule Rule 4(h), the Rule that allows employees the right to displacement by seniority, does not distinguish between Rail Gangs and Ballast Gangs and "is therefore not specific with respect to displacement between such rosters." The Board further concluded that there was no probative evidence that displacement between rosters ever occurred.

The Board finds Third Division Award 26578 to be on all fours with the current case and sees no basis in the record for making a contrary determination.

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.

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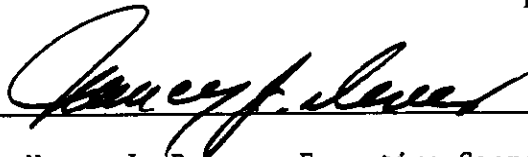
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Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest: \_\_\_\_\_



Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 11th day of December 1987.