

The Third Division consisted of the regular members and in addition Referee Robert W. McAllister when award was rendered.

PARTIES TO DISPUTE: ((Brotherhood of Maintenance of Way Employees
(Consolidated Rail Corporation

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

(1) The Carrier violated the Agreement when it assigned junior Trackman D. Weise to fill a temporary vacancy as 'B' Foreman in Gang SE-311 November 7 to December 20, 1983, instead of assigning and using Trackman M. Suwinski who was senior, available, willing and qualified to fill that vacancy (System Docket CR-712).

(2) Because of the aforesaid violation, Mr. M. Suwinski shall be allowed the difference between what he should have been paid at the 'B' Foreman's rate and what he was paid at the trackman's rate and he shall be allowed overtime pay at the 'B' Foreman's rate equal to that paid to Mr. D. Weise during the claim period."

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employees within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

The Claimant is seeking additional pay for the six week period that a Trackman with less seniority was worked on a temporary vacancy as a Foreman. At the time of the occurrence, the Claimant had never requested the opportunity to demonstrate his qualifications for a Foreman's position. The record establishes he was not qualified as an Assistant Foreman or a Foreman, and his name did not appear on the Foremen's roster. The record further shows the employee utilized on the temporary assignment had earlier qualified as a Foreman and had bid on the involved temporary vacancy.

On the basis of these facts, it is obvious that Claimant was not qualified, and his claim for compensation is without merit.

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Award No. 26830
Docket No. MW-26525
88-3-85-3-262

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Bever - Executive Secretary

Dated at Chicago, Illinois, this 25th day of February 1988.