

The Third Division consisted of the regular members and in addition Referee Edwin H. **Benn** when award was rendered.

(Brotherhood of Maintenance of Way **Employes**
PARTIES TO DISPUTE: (
(The Chesapeake and Ohio Railway Company
(Northern Region)

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

(1) The Carrier violated the Agreement when it failed and refused to compensate **Trackman** R. Vanderpool for wage loss suffered on April 3, 1984 on which day he was improperly displaced from his assignment as **trackman** on Force 1816-1257 at Detroit, Michigan (System File C-TC-2143/MG-4684).

(2) Because of the aforesaid violation, **Trackman** R. Vanderpool shall be allowed eight (8) hours of pay his straight time rate."

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.

Claimant held seniority as a **Trackman** and was assigned to SWT, 41, Force 1816-1257 at Detroit, Michigan. On April 2, 1984, Claimant was notified by Track Supervisor T. E. **Jozwiak** that effective April 3, 1984, he would be displaced by senior employee J. Campbell who was exercising his seniority rights. At the same time, D. Young (who was junior to Claimant) claimed the job held by **K. Albert** on Force 1816-1257 effective April 3, 1984. Upon learning of his displacement, Claimant notified his Track Supervisor that he **intended** to displace Young. The Track Supervisor had no way of contacting Young and Claimant was unable to make the displacement until Young actually started working on April 3, 1984, that displacement being effective April 4, 1984. In his Claim, Claimant seeks compensation for April 3, 1984.

This dispute is governed by Rule 7(a) which reads:

"An employee exercising displacement rights shall notify ~~the~~ supervisor of the sub-department on which employed the date on which he will report for work (which date shall be not less than twenty-four (24) hours after the date of notification) and where he desires to displace an employee junior in the service on the seniority district. The employee to be displaced shall be notified before he quits work on the day before his displacement become effective."

Under the facts presented, the record shows that on April 2, 1984, the notice requirements set forth in Rule 7(a) could not have been achieved due to the fact that the employee that Claimant specifically chose to displace (Young) had not yet **started** working and could not be contacted. The Claim must therefore be denied.

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 17th day of March 1988.