

The Third Division consisted of the regular members and in addition Referee Martin F. Scheinman when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen  
(Burlington Northern Railroad Company

STATEMENT OF CLAIM: "Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Burlington Northern Railroad Company:

On behalf of Signalman K. L. Williams for \$94.80, account of Carrier violated the Scheduled Agreement, particularly Rule 16, and the National Vacation Agreement, Article 12(b), when during the week of March 5-10, 1984, Carrier used a junior employee to relieve the CTC Signal Maintainer at Tupelo, Mississippi. General Chairman File: F-84-366."

FINDINGS:

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

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employes 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 relevant facts of this case are not in dispute. On March 5, 1984, Carrier assigned an employee, junior to Claimant, to relieve the vacationing CTC Signal Maintainer at Tupelo, Mississippi. As a result, the Organization filed this claim. Carrier timely rejected it. Thereafter, it was handled in the usual manner on the property. It is now before this Board for adjudication.

The Organization contends that Carrier violated principle of seniority in not calling Claimant in to relieve the vacationing CTC Signal Maintainer. In its view, nothing in Carrier's arguments raised on the property refutes this contention. Therefore, it asks that the claim be sustained in its entirety.

Carrier contends that in the past, Claimant has exhibited hostility and unavailability towards the 24 hour per day availability requirement. Thus it insists, it had every right to bypass Claimant and select a junior employee for the vacation relief position. Therefore, Carrier asks that the claim be rejected.

A review of the record convinces this Board that the claim must be sustained. The record established on the property demonstrates that Claimant, though senior, was not called for the vacation relief position in question. Clearly, Carrier was required to do so absent unusual circumstances to the contrary.

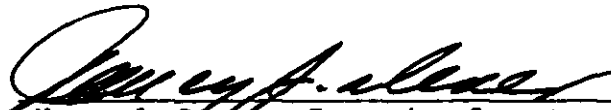
The Board notes Carrier's contention that Claimant had demonstrated, prior to the day in question, his unwillingness to perform relief work (See Carrier Exhibit 8, dated May 12, 1984). However, that letter was not part of the record developed on the property and, thus, cannot be considered by this Board. Had that document been raised on the property, a different result might be warranted. However, based on the record before us, the claim must be sustained.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

  
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 30th day of August 1988.