

The Third Division consisted of the regular members and in addition Referee Rodney E. Dennis when award was rendered.

(Brad Fluck
PARTIES TO DISPUTE: (
(Burlington Northern Railroad Company

STATEMENT OF CLAIM:

"(1) The Carrier violated the effective Agreement by not allowing Foreman, Brad Fluck, permanent displacement move under Rule 8E1 of the September 1, 1982 Agreement of the Burlington Northern Railroad Company and the Brotherhood of Maintenance of Way Employees.

(2) Foreman, Brad Fluck be allowed to make permanent displacement of Section foreman Litchfield, Mn. that has been denied by Carrier."

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.

Claimant was assigned on August 5, 1985, on Job 10039 Foreman (perm). The job was posted as a permanent job in error. It should have been posted as a temporary job. Claimant worked the job until August 30, 1985, when it was abolished. Claimant then attempted to bump into a permanent Foreman position at Litchfield, MN. Carrier denied Claimant the opportunity to bid as a permanent Foreman's job because the job held was posted in error as a permanent position. When confronted with the situation, Carrier and the Organization agreed that Claimant should not be allowed to gain a bid opportunity as a result of an error. They agreed that Claimant should return to his temporary position as Machine Operator.

This Board has reviewed the record and is compelled to conclude that Claimant should not be allowed to gain a seniority position as a permanent Foreman as a result of an error. All concerned knew from the outset that the posting for job 10039 was in error and that it should have been listed as a temporary position and not permanent. Given this general knowledge of the situation, this Board does not see why this claim has been progressed.

Form 1
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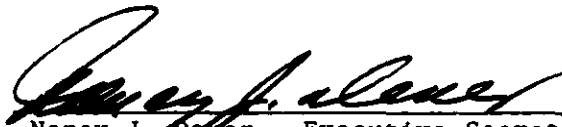
Award No. 27734
Docket No. MS-27090
89-3-86-3-399

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 2nd day of March 1989.