

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 27826
Docket No. MW-27307
89-3-86-3-417

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

PARTIES TO DISPUTE: ((Brotherhood of Maintenance of Way Employees
(Burlington Northern Railroad Company
(former St. Louis-San Francisco Railway Company)

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

(1) The Carrier violated the Agreement when, beginning June 3, 1985, it assigned Seniority District No. 1 Machine Operator R. Hill to operate a tie remover on Seniority District No. 2 instead of recalling and assigning furloughed Seniority District No. 2 Machine Operator D. Pepper (System File B-1364/EMWC 85-8-12).

(2) As a consequence of the aforesaid violation, Seniority District No. 2 Machine Operator D. Pepper shall be compensated for all time worked by Machine Operator R. Hill on Seniority District No. 2."

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 holds seniority as a Machine Operator in the Track Sub-department on Seniority District No. 2. Mr. R. Hill also holds seniority as a Machine Operator in the Track Sub-department. His seniority, however, was established on Seniority District No. 1. The seniority of Claimant and Mr. Hill is restricted to their respective seniority districts.

This claim arose as a result of Carrier's assigning Mr. Hill to operate a tie-remover in District No. 1, as well as in District No. 2. Claimant was the senior employee in District No. 2 and was willing and available to take the job and operate the machine.

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At issue is the interpretation of Rule 23, the System Gang Rule. This Rule allows Carrier to organize system gangs and move them from one seniority district to another.

It is the opinion of this Board that Rule 23 was designed to allow gangs to operate over the system from one district to another without bringing in a new gang of employees. This Rule was not intended to interfere with the seniority system, which safeguards an employee's right to certain jobs. Rule 23 relates to gangs and to machines, but does not apply to individual Machine Operators. Honoring the seniority system and determining that Claimant has a right to the work in his District will in no way interfere with the intent or operation of Rule 23.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Bever - Executive Secretary

Dated at Chicago, Illinois, this 13th day of April 1989.