

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  
(Missouri-Kansas-Texas Railroad Company

STATEMENT OF CLAIM:

"Claim of the System Committee of the Brotherhood that:

(1) The claim\* as presented by General Chairman J. P. Self on May 6, 1985 to Division Engineer J. F. Masters shall be allowed as presented because the claim was not disallowed by Division Engineer J. F. Masters in accordance with Rule 1(a) of Article 28 (System File S.R.M.G. 600/2579).

\*The initial letter of claim will be reproduced within our initial submission."

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.

Under date of May 6, 1985, the General Chairman presented a claim to Carrier's Division Engineer concerning the application of a November 1, 1983 Letter of Agreement to, in particular, System Gang No. 600.

That Gang was established in order to provide a stable work force in that Gang and to expedite track repairs and/or rehabilitation between Palo, Kansas, and Houston, Texas. Employees who accepted positions on the System Gang did so with the knowledge that the only way they could return to their original seniority districts was by force reductions or displacements by senior employees, and then, only if they had exhausted all rights in System Gang No. 600. Employees cannot voluntarily relinquish positions to return to original seniority districts. All of these limitations are in accordance with the November 1, 1983 Letter of Agreement.

The fact that the establishment of the 600 Gang was by agreement does not seem to be in dispute.

The position taken by the Organization is that the Division Engineer did not disallow the claim in accordance with Rule 1(a) of Article 28. The record establishes that the Division Engineer did not respond to the claim as alleged by the Organization. However, the claim initially filed and progressed was to seek modification in the rights and obligations established in the November 1, 1983 Agreement. This Board is without jurisdiction to change the provisions of that Agreement.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

  
Nancy J. Deven - Executive Secretary

Dated at Chicago, Illinois, this 6th day of June 1989.