

The Third Division consisted of the regular members and in addition Referee Elliott H. Goldstein when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(National Railroad Passenger Corporation
((Amtrak) - Northeast Corridor

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

(1) The Carrier violated the Agreement when it refused to permit Trackman C. Frazier to displace a junior trackman at Hunter Yard, Newark, New Jersey on November 19, 1984 (System File NEC-BMWE-SD-1189).

(2) The claimant shall be allowed ten (10) hours of pay at 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.

The instant case was advanced to this Board simultaneously with the case culminating in Award 28470. The facts herein are nearly identical to those presented in that case. Claimant apparently displaced into Gang Z-182 shortly before the effective date of its abolishment, November 15, 1984. Inasmuch as the abolishment notice for that gang had already been posted on November 6, 1984, Claimant's name was not on that notice. On Monday, November 19, 1984, Claimant reported to Carrier's Newark, New Jersey yard to displace a junior employee on the C.W.R. gang. Claimant presented no evidence to show that he had the right to make a displacement and he was not permitted to exercise his seniority on that date. The displacement was effected on the following date, November 20, 1984.

Because the evidence and arguments presented in this case essentially mirror those presented in Award 28470, our findings and conclusions therein are deemed controlling. As in that Award, we find that Carrier demonstrated that there was an established procedure which required employees to show documentation to support their right to exercise seniority, and that such a procedure is reasonable and proper. Claimant's failure to earn compensation on

November 19, 1984, because he failed to present supportive documentation in the form of a displacement slip prior to exercising his seniority is not the result of any violation on Carrier's part but, rather, a matter which Claimant himself controlled.

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 7th day of August 1990.