

The Third Division consisted of the regular members and in addition Referee Charlotte Gold when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(Union Pacific Railroad Company
(former Missouri Pacific Railroad Company)

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

(1) The Agreement was violated when the Carrier failed to properly recall Mr. Seymore Williams, III from furlough and then subsequently terminated his employment relationship and removed his name from the seniority roster in accordance with its July 25, 1988 letter (Carrier's File 880630 MPR).

(2) As a consequence of the aforesaid violation, Mr. Seymore Williams, III shall be returned to service with seniority, vacation and all other rights unimpaired and he shall be compensated for all straight time and overtime wage loss suffered beginning August 15, 1988 and continuing until such time as the violation is corrected."

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.

Claimant was furloughed on February 5, 1988. In accordance with Rule 2 (j) of the parties' Agreement, he was entitled to be recalled to service. On May 4, 1988, Claimant placed a bid on a position by telephone. According to Carrier, he was assigned to "On Line" Gang 2893 in the vicinity of Austin, Texas, effective May 13, 1988. Also according to Carrier, in the course of the call, Claimant allegedly notified Carrier of a change in address, from Palestine, Texas, to San Antonio, Texas. The Organization denies that Claimant was given the assignment at that time or that he submitted a change of address.

Claimant did not appear at the assignment and on June 24, 1988, a letter was sent to him in San Antonio, Texas, advising him to report within seven days of its receipt or forfeit his seniority. The letter, with a zip code of 72302 on the address, was returned to Carrier. A second letter was sent on July 25, 1988, to him in San Antonio, Texas. The zip code was changed to 78211. The second letter was returned unclaimed. On August 26, 1988, his name was removed from the roster for failure to protect his assignment. A Claim was filed on behalf of Claimant by the General Chairman on October 11, 1988. The Claim was to begin August 15, 1988, and continue until Claimant was reinstated.

This Board has reviewed the evidence in the record, with special attention to the Union Pacific Railroad Telephone Advertisement Worksheet, which is used by employees in making application for bulletined vacancies advertised through the telephone recording bulletin system. We note that in the course of making a bid, applicants are required to state their current address. Carrier alleges that Claimant gave an address in San Antonio, Texas, but is unable to substantiate this allegation because it either lost or misplaced the taped message. It used the information message system to alter Claimant's permanent address for recall notification purposes.

This Board cannot agree that information provided in this format is sufficient to trigger an alteration in an employee's permanent record. If it were to be used for this purpose, employees would have to be placed on notice that in phoning in bids and giving their "current" address (which may or may not be permanent), they would be changing an address that they had been required to provide in writing, under Rule 2 (j), in order to be eligible for recall. That was not done in this instance and thus it must be concluded that Carrier erred in altering Claimant's address based on this recorded message.

While this Board cannot determine from the record whether Claimant did or did not leave a San Antonio, Texas, address on the machine, it is of interest to note that the zip code Carrier used when it altered its records and when it mailed its first notice to Claimant on June 24 was not the correct one for the address in San Antonio, Texas. It had to locate a new zip code for its July 25 notice. At the same time, we note that the directions for making telephone bids indicate that "Once completing your bid, you then simply hang up and your voice recorded bid is automatically filed." Carrier alleges that after Claimant requested his bid, he was given an assignment to a gang in the vicinity of Austin, Texas. It is not clear to this Board when, in the course of this bidding procedure, such an assignment would be made.

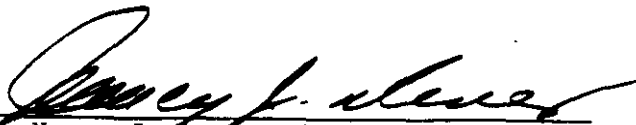
Based on the record before us, we must conclude that there is merit to this Claim. We also find that Claimant should be compensated from the date of the Organization's Claim, the point at which the Organization and Claimant elected to take action. Claimant shall be returned to service with seniority and all other rights unimpaired. He shall be made whole for all wages lost from October 11, 1988, less outside earnings.

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Deyer - Executive Secretary

Dated at Chicago, Illinois, this 28th day of March 1991.