

The Third Division consisted of the regular members and in addition Referee Joseph A. Sickles when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(Chicago and North Western Transportation Company (CNWT)

STATEMENT OF CLAIM: "Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Chicago Northwestern Transportation Company (CNWT):

Claim on behalf of R.E. Wagener, for payment of 8 hours pay each day at his pro-rata rate of pay, for January 1, 2, 5, 6, 7, 8, 9, 12, 13 and 14, 1990, with credit for vacation and other benefits, account of Carrier violated the current Signalmen's Agreement, as amended, particularly, Rules 5, 35, 36 and 37, when it furloughed him without cause." Carrier's File No. 75-90-11. Gen'l. Chmn's File No. CN&W S-AV-14. BRS Case No 8265-CNWT.

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.

The Claimant held permanent position job # 203-67, but he was working temporarily as LSM #107-61.

On December 5, 1989, the Carrier abolished twelve (12) positions, and the Claimant was displaced from his permanent position by a senior employee. Thereafter, the Claimant was furloughed from the temporary position 107-61.

Under Rule 35 (c), an affected employee must make a displacement to a permanent position. The Claimant failed to do so within the prescribed time limitations. An employee having displacement rights may displace a junior employee on a temporary or "pending return" position provided he currently makes a "technical displacement" on a permanent position. Rule 36 also suggests that a person holding a temporary or "pending return" position must have a regular position.

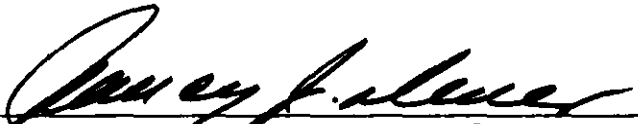
A reading of the entirety of Rules 35 and 36 clearly suggest that an individual must hold a permanent position in order to hold a temporary position. The Organization has complained that a junior employee was employed in lieu of the Claimant, but that matter was within the clear control of the Claimant. He had the opportunity to exercise his own permanent displacement rights, but failed to do so.

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 17th day of September 1992.