

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 31713
Docket No. MW-31195
96-3-93-3-186**

The Third Division consisted of the regular members and in addition Referee Robert L. Hicks when award was rendered.

**(Brotherhood of Maintenance of Way Employees
PARTIES TO DISPUTE: (
(Consolidated Rail Corporation**

STATEMENT OF CLAIM:

- “(1) The Agreement was violated when the Carrier failed to permit Mr. E. K. Crummel to displace junior Trackman/Casual Driver H. J. Rice on the Harrisburg Division on November 26, 1991 (System Docket MW-2385).**
- (2) As a consequence of the violation referred to in Part (1) Above, Mr. E. K. Crummel shall be compensated for all time made by Mr. Rice at the applicable rate for a trackman/casual driver, starting with November 26, 1991 and continuing until the attempted displacement of the junior employee is allowed, the Claimant shall be allowed to work the position and he shall be allowed credit for days worked by the junior employee to be applied towards qualifying for vacation and sub-pay.”**

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 employee 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 were given due notice of hearing thereon.

On November 26, 1991, Claimant attempted to displace a junior employee from a position of trackman/casual driver. This position is bulletined with the requirement that the successful applicant must possess a Pennsylvania Class II driver's license. Claimant was denied displacement rights on the basis that he had no Class II license. An employee senior to Claimant with the proper license displaced on the position Claimant was denied. This displacement was on November 27, 1991. Although there is the appearance of continuing liability, there is only one day that is in question.

Claimant did produce a statement contending that he had a Pennsylvania Class II license, and he showed same to the Supervisor who declined the displacement. There is nothing in the record refuting Claimant's statement. Claimant had the proper license to work the position.

The claim will be sustained for one day's pay, November 26, 1991.

AWARD

Claim sustained in accordance with the Findings.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

**NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division**

Dated at Chicago, Illinois, this 25th day of September 1996.