

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 31890
Docket No. MW-30572
96-3-92-3-327

The Third Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

(Brotherhood of Maintenance of Way Employees

PARTIES TO DISPUTE: (

(Southern Pacific Transportation Company (Eastern Lines)

STATEMENT OF CLAIM:

"Claim of the System Committee of the Brotherhood that:

(1) The Agreement was violated when Messrs. A. J. Dalfrey and R. Alex forfeited their assistant foreman seniority and the Carrier failed and refused to remove their names from the 1991 Assistant Foreman Seniority Roster (System Files MW-91-57/500-64-A and MW-91-65/500-80-A SPE).

(2) The Agreement was further violated when the Carrier assigned Mr. A. J. Dalfrey to the assistant foreman position, B&B Gang BB11, as outlined within Assignment Notice of March 11, 1991 for Bulletin No. BB05 instead of assigning Claimant I. Gordon, Jr. to the position.

(3) As a consequence of the violation referred to in Part (1) above, the names of Messrs. Dalfrey and Alex shall be removed from the assistant foreman's seniority roster.

(4) As a consequence of the violation referred to in Parts (1) and/or (2) above, the Claimant shall be assigned to the assistant foreman position on B&B Gang BB11 and he shall be '...compensated 42 hours at his straight time rate of pay and \$605.60 auto expenses and continuing until such time Mr. Gordon is assigned as Assistant Foreman on B&B Gang #11 at West Lake Louisiana.'"

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.

This dispute concerns a bulletin advertising an Assistant B&B Foreman position awarded to another employee rather than to the Claimant. The employee assigned to the position had previously held an Assistant Foreman position and had been working as a Carpenter. This employee, if it is found that his seniority rights were properly retained, was senior to the Claimant.

The record shows some confusion and/or misunderstanding concerning the bidding requirements of an employee assigned to a system position to retain previously held seniority. In any event, the employee involved here was listed on the 1990 seniority roster as retaining such seniority. While the Organization contends that this listing was protested, the Carrier denies the existence of any formal protest. The lack of clarity as to bidding requirements was the subject of an Agreement on March 20, 1991 which was intended to "eliminate any misunderstandings."

Given this state of the facts, the Board finds no grounds to disturb the standings as recorded on the existing seniority roster or to support a belated removal of the employee assigned to the Assistant Foreman position in favor of the Claimant.

AWARD

Claim denied.

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ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 4th day of March 1997.