

Award No. 14254
Docket No. MW-12390

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Edward A. Lynch, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

**THE DENVER AND RIO GRANDE WESTERN
RAILROAD COMPANY**

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

(1) The Carrier violated the effective Agreement when it permitted Section Laborer John M. Valdez to displace Section Laborer Juan A. Ortiz on the Grand Valley section effective March 14, 1960.

(2) Section Laborer Juan A. Ortiz now be allowed pay for an amount equal to the amount earned by Section Laborer John M. Valdez beginning on March 14, 1960 and continuing until the violation referred to in Part (1) of this claim is corrected.

EMPLOYES' STATEMENT OF FACTS: Claimant Juan A. Ortiz has established and holds permanent seniority as a section laborer on his home section at Grand Valley, Colorado as of May 28, 1952, whereas Mr. John M. Valdez has established and holds permanent seniority as a section laborer on his home section at Rifle, Colorado as of April 4, 1949.

Because of force reduction on the Grand Valley and Rifle sections, both the Claimant and Mr. Valdez exercised displacement rights on the DeBeque Colorado section and were cut off of that section in force reduction on February 23, 1960.

On March 7, 1960, the Claimant was recalled to service on his home section at Grand Valley and worked thereon until the Carrier permitted Section Laborer Valdez to displace him on March 14, 1960.

The Agreement in effect between the two parties to this dispute dated February 1, 1941, together with supplements, amendments, and interpretations thereto is by reference made a part of this Statement of Facts.

CARRIER'S STATEMENT OF FACTS: The territory comprising one seniority district for track laborers involved in this dispute is a portion of the

Grand Junction Division. The territory over which one Superintendent has jurisdiction is the entire Grand Junction Division. That portion of the Division here involved is under the jurisdiction of one Roadmaster and extends on the main line west from Funston through Grand Junction, thence on a branch line from Grand Junction south to Ridgway including the North Fork Branch Delta to Somerset.

The headquarters of the three sections involved in this dispute are Rifle, Grand Valley and DeBeque, located respectively 26, 43 and 56 miles west of Funston and 63, 46 and 33 miles east of Grand Junction.

The home section of claimant in this case, Juan A. Ortiz, is Grand Valley where he holds a seniority date as track laborer of May 28, 1952.

The home section of John M. Valdez is Rifle where he holds a seniority date as track laborer of April 4, 1949.

On March 14, 1960 Valdez was permitted to displace Ortiz as track laborer at Grand Valley, resulting in the instant claim which has been denied by Carrier.

OPINION OF BOARD: We must view this dispute in the light of the factual situation existing on March 7, 1960 when Carrier increased its force at Grand Valley by restoration of one position.

Grand Valley was Claimant Ortiz home gang. He had been on furlough. He held a seniority date of May 28, 1952.

John M. Valdez, with a seniority date of April 4, 1949, has his home gang at Rifle. Grand Valley, Rifle and DeBeque are in the same seniority district.

When, on March 7, 1960 Carrier found it necessary to restore one position at Grand Valley it recalled Ortiz. On March 14, 1960 Valdez was allowed to displace Ortiz. Organization contends that because the position was restored at Grand Valley, Ortiz was entitled to it, because it was his home section or gang.

The issue thus joined is one of seniority: section (gang) versus district seniority.

Paragraph (a) of Rule 3 of the applicable agreement, as interpreted jointly by the parties, provides:

"(2) The words 'Seniority rights of laborers, as such, will be restricted to their respective gangs' mean that permanent seniority for a laborer is limited exclusively to service performed by him with one specific gang, subject to the exception which follows; and

(3) The words '... except that when force is reduced, laborers affected may displace laborers junior in service on their seniority district' are intended to have application as follows:

(a) When a section laborer (for example) can no longer work in the section gang with which his permanent seniority date has been established, account reduction in force, he then

has the right to displace the junior section laborer on any section gang in the same seniority district who is junior to him in seniority; . . ." (Emphasis ours.)

It is patently clear then that Carrier's action in approving Valdez request to displace Claimant Ortiz was proper under paragraph 3(a) of the parties' joint interpretation of the current agreement. Claimant Ortiz admittedly was junior to Valdez in the same seniority district.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the Carrier and the Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That we find no violation.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 24th day of March 1966.