

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24877
Docket Number SG-24467

Martin F. Scheinman, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(Southern Pacific Transportation Company (Western Lines)

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Southern Pacific Transportation Company (Western Lines):

On behalf of Leading Signalman L. E. Woodford for eight and one-third hours' time and one-half rate of pay, under Rule 72, account Carrier used a junior employee for vacation relief November 24 to December 5, 1980, in violation of Section 12(b) of the Vacation Agreement, and the junior employee worked overtime during that period for which he received eight and one-third hours' overtime pay. [Carrier file: SIG 148-321]

OPINION OF BOARD: From November 24 to December 5, 1980, Carrier granted Signal Maintainer E. O. Rosebure vacation time off at its Colton East yard in Colton, California. During that period, Carrier used Lead Signalman G. Readman to relieve the Signal Maintainer.

The Organization contends that Carrier should have used Claimant L. E. Woodford to fill the vacancy, since he is senior to Signalman Readman. In the Organization's view, Carrier's failure to use the senior employee violates Rule 21(b) of the Agreement. That rule reads:

"(b) As employees exercising their vacation privileges will be compensated under this agreement during their absence on vacation, retaining their other rights as if they had remained at work, such absences from duty will not constitute 'vacancies' in their positions under any agreement. When the position of a vacationing employee is to be filled and regular relief employee is not utilized, effort will be made to observe the principle of seniority." (Emphasis supplied.)

In support of its claim, the Organization points out that Claimant is headquartered at Colton. However, Signalman Readman, the junior employee, is headquartered some twenty-five miles away from Colton. Thus, the Organization suggests that Carrier did not make an effort to observe the principle of seniority since the senior qualified employee was more readily available than the junior employee.

In addition, the Organization suggests that another reason may have caused Carrier to use Signalman G. Readman instead of Claimant as vacation relief in late 1980.

The Organization points out that Signalman G. Readman is the nephew of Signal Manager C. J. Readman. Therefore, the Organization suggests that nepotism, instead of service requirements, resulted in Carrier's actions here.

Carrier, on the other hand, insists that it did not violate the Agreement under the facts of this case. Carrier points out that Signal Maintainer Rosebure was under the supervision of the Tucson Regional Engineer. Lead Signalman Readman, who replaced Signal Maintainer Rosebure was under the same regional supervision. However, Claimant was under the supervision of the Los Angeles Regional Engineer. Thus, Carrier reasons that the Tucson Regional Engineer had the right to give preference to an available employee under his supervision, as opposed to an employee under the supervision of the Los Angeles Regional Engineer. This is so because, in Carrier's view, Claimant's availability for vacation relief would be subject to the discretion of the Los Angeles Regional Engineer. As such, Carrier concludes that it exercised sound managerial prerogatives in selecting Lead Signalman G. Readman over Claimant to fill vacation relief in November and December 1980.

We believe that this issue has been dealt with in a previous claim involving these same two parties under substantially similar circumstances. In this Board's Award No. 24283, we concluded that Carrier did make an effort to observe the principle of seniority when it used Signal Maintainer Readman who was junior to Claimant to fill vacation relief in March 1980. Nothing in this record convinces us that a different result is warranted here. Thus, under the time honored principle of stare decisis, we shall adhere to our finding in that case. Accordingly, the claim is denied.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

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

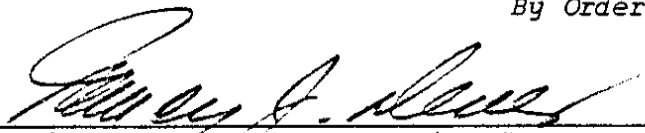
That the Agreement was not violated.

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 28th day of June, 1984