

The Third Division consisted of the regular members and in addition Referee Rodney E. Dennis when award was rendered.

(Brotherhood of Maintenance of Way Employees  
PARTIES TO DISPUTE: (  
(National Railroad Passenger Corporation  
(Amtrak) - Northeast Corridor

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

(1) The Carrier violated the Agreement when it failed and refused to permit Trackman B. LaFrazier to displace junior Trackman M. Gamble on and subsequent to November 27, 1984 (System File NEC-BMWE-SD-1196).

(2) As a consequence of the violation referred to in Part (1) hereof, Claimant B. LaFrazier shall be allowed 'All straight time & overtime worked by junior employe until Dec. 3, 1984.'

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.

Claimant was, at the time of the incident that gave rise to this case, employed by Carrier as a Trackman. Claimant contends that he attempted to displace a junior trackman on November 27, 1984, and was not allowed to do so by Carrier until December 3, 1984. He claims all time worked by the junior employe from November 27 to December 3, 1984, as compensation.

Carrier denied the claim on the basis that Claimant, by his own actions, delayed the time he displaced until December 3, 1984. He could have worked sooner if he had followed proper procedures for bumping.

This Board has carefully reviewed this record and we cannot conclude from it who is at fault in this instance. The record contains so many conflicting statements that a clear line of evidence does not exist to support either side. We therefore are compelled to dismiss this case due to the irreconcilable differences in the record.

Form 1  
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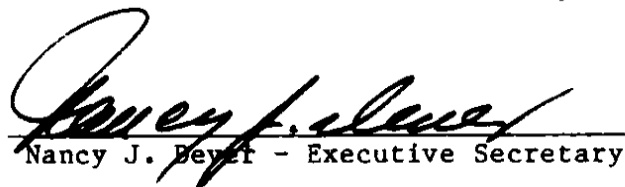
Award No. 27738  
Docket No. MW-27156  
89-3-86-3-222

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

  
Nancy J. Dwyer - Executive Secretary

Dated at Chicago, Illinois, this 2nd day of March 1989.