

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

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(Soo Line Railroad Company (Formerly Chicago, Milwaukee
(St. Paul and Pacific Railroad Company)

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

(1) The Agreement was violated when the Carrier permitted junior employees B. Ness and B. Adams, instead of Mr. R. L. Taylor, to fill laborers positions on System Steel Gang No. R-1 on September 29, 30, October 1, 2, 3, 6, 7 and 8, 1986 (System File C #20-86/800-46-B-272).

(2) As a consequence of the aforesaid violation, Mr. R. L. Taylor shall be allowed sixty-four (64) hours of pay at the laborer's straight time rate and he shall be compensated at the time and one-half rate for all overtime hours worked by Messrs. Ness or Adams from September 29 through October 8, 1986."

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 assigned as a Track Laborer on System Steel Gang #R-1. During such service, he applied for and was assigned to a temporary vacancy as a Machine Operator during the period in which the position was bulletined. The Claimant was not awarded the Machine Operator position upon completion of the bulletin period.

Instead of being returned to his Track Laborer position on September 26, 1986, as required by Rule 13, he was placed on furlough. It was later determined that two junior employees had been retained as Track Laborers. The Claimant was permitted to resume service on October 9, 1986. Subsequently, a Claim for the interim period was initiated.

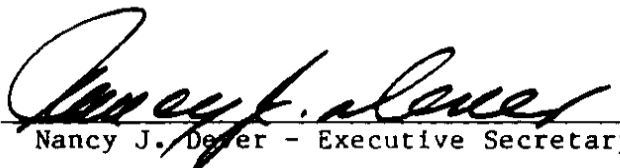
The Claim has merit and must be sustained, except that pay for September 29-30, 1986 is not allowed. The facts of record on the property fail to show that the Claim was timely filed for these two dates.

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 27th day of April 1990.