

The Third Division consisted of the regular members and in addition Referee John B. LaRocco when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees  
(  
(Soo Line Railroad Company

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

(1) The Carrier violated the Agreement when it assigned junior Sectionman H. J. Zutz to perform temporary service from January 2 through January 7, 1986, instead of using Sectionman W. E. Birkholtz who was senior, available and willing to perform that service (System File R255 #1627B/800-46-B-229.)

(2) Because of the afore-mentioned violation, Claimant W. E. Birkholtz shall be compensated for all wage loss suffered and have all vacation, fringe benefits and other rights restored."

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 employees 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, a Sectionman with an August 8, 1972, seniority date, was furloughed from Crew 113 on December 30, 1985. The territory covered by Crew 113 experienced a heavy snowstorm on January 1, 1986. To assist with removing snow from the track on January 2, 1986, the Crew Foreman called a junior Sectionman whose seniority date was September 15, 1972, because the Foreman knew the Sectionman was available.

Beginning on the following day, January 3, 1986, the regularly assigned Crew Assistant Foreman filled a relief Track Inspector's position. The Carrier assigned the junior Sectionman as temporary Section Foreman from January 3 through January 7, 1986. Unlike Claimant, the junior Sectionman held seniority as an Assistant Foreman.

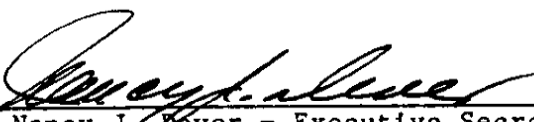
The record reflects that the Carrier did not exert any effort to contact Claimant, who was senior to the Sectionman utilized, to perform snow removal duties on January 2, 1986. Regardless of whether or not the junior Sectionman was readily available, the Carrier should have first called Claimant to ascertain his availability. However, Claimant was not qualified as an Assistant Foreman and thus, he lacked seniority to fill the temporary Assistant Foreman vacancy on Crew 113 from January 3 through January 7, 1986. The junior Sectionman was the senior qualified Sectionman holding Assistant Foreman's seniority. Therefore the Claim is sustained for January 2, 1986.

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

  
Nancy J. Bever - Executive Secretary

Dated at Chicago, Illinois, this 28th day of August 1990.