

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award No. 29625

Docket No. MW-29265

93-3-90-3-153

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

(Brotherhood of Maintenance
(of Way Employes

PARTIES TO DISPUTE: (Soo Line Railroad Company

STATEMENT OF CLAIM:

"Claim of the System Committee of the Brotherhood that:

(1) The Agreement was violated when the Carrier permitted junior employe D. Keller to displace Mr. M. Bossert from the Assistant Foreman Short Vacancy at Drake on December 28, 1988 (System File R613/800-46-B-329).

(2) As a consequence of the aforesaid violation:

(a) Mr. M. Bossert shall be allowed fifty-one dollars (\$51.00) mileage reimbursement, thirty-four dollars (\$34.00) lodging reimbursement and one day's pay at the assistant section foreman's rate in the amount of one hundred four dollars and forty-eight cents (\$104.48) for a total of one hundred eighty-nine dollars and forty-eight cents (\$189.48).

(b) Mr. K. Wolbaum shall be allowed seventeen dollars (\$17.00) mileage reimbursement and twenty-five dollars (\$25.00) lodging reimbursement for a total of forty-two dollars (\$42.00).

(c) Mr. W. D. Pritchert shall be allowed two (2) day's pay at the assistant section foreman's rate in the amount of two hundred eight dollars and ninety-six cents (\$208.96)."

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 employe 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.

The first named Claimant was improperly displaced by an employee who did not hold the seniority to entitle him to this move. The displacement was made with the knowledge of a Carrier representative, who failed to note that the displacement was improper. This displacement led to two successive displacements. Two of the three Claimants lost work because of the move. All three contend they were subject to unnecessary travel and lodging expense to make the displacements, which should not have been required in the first place.

The Carrier admits that the first displacement was improper, but contends that the Claimant should have been aware of his seniority standing and should have put the Carrier on notice in time to prevent the improper move. The Carrier also argues that the other Claimants should also have questioned the moves, although the basis of this belief is difficult to understand, since no question of improper seniority was involved in the second and third displacements.

The Board determines that the Carrier must accept responsibility for the chain of displacements. The Carrier retains direction of where its employees are assigned. This responsibility cannot be shifted to the employees.

The Carrier in particular questions the propriety of the portion of the Claim concerning travel expenses, pointing out that such travel expenses are not covered in the regular exercise of seniority. Except for the initial error, however, these employees would not have been subject to any time loss or expense. The Claim amounts are moderate and will be sustained.

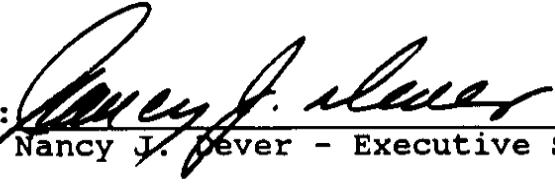
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A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: 
Nancy J. Neuer - Executive Secretary

Dated at Chicago, Illinois, this 8th day of April 1993.