

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 30012
Docket No. MW-29549
94-3-90-3-490

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
(
(Union Pacific Railroad Company (former
(Missouri 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 employe J. F. Alexander instead of senior employe D. Sandifer to fill a machine operator position (ATS-83) on Gary Self's gang from March 7 through 24, 1989 (Carrier's File 890512 MPR).
- (2) Machine Operator D. Sandifer shall be compensated for all straight time and overtime wage loss suffered as a consequence of the aforesaid violation."

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 Claimant, a Machine Operator, was furloughed from his regularly assigned position on March 6, 1989. To remain in active service, he was required to exercise his seniority within 20 days. The Claim here is that he should have been permitted to displace a junior Machine Operator who, as described by the Organization, "had recently been displaced from his regularly assigned position... [but] was retained to perform temporary service, i.e., to train the employe who displaced him from his position."

Applicable here is Rule 2(f), which states in pertinent part as follows:

"Employees entitled to exercise seniority rights over junior regular assigned employees must designate exercise of such rights within twenty (20) calendar days following their displacement,..."

The Carrier argues that the Claimant was not entitled to displace the junior Machine Operator who himself had been displaced and who was working "extra" simply for training purposes. The Carrier argues that Rule 2(f) refers to displacement of "regular assigned employees", which clearly does not encompass this "extra" employee no longer in a "regular assigned position". The Board finds this to be sound reasoning, and there is no Rule violation in the Claimant's not being permitted to make this displacement.

Supportive of this is Special Board of Adjustment No. 279, Award 425, involving the same parties, which reached the same conclusion in a closely similar dispute.

The Claimant was able to make a displacement to another position within the 20-day period.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: Catherine Loughrin
Catherine Loughrin - Interim Secretary to the Board

Dated at Chicago, Illinois, this 21st day of January 1994.