

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 33488
Docket No. SG-33977
99-3-97-3-496**

The Third Division consisted of the regular members and in addition Referee Robert Perkovich when award was rendered.

**(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(National Railroad Passenger Corporation (AMTRAK)**

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the National Railroad Passenger Corp. (NRPC-P):

Claim on behalf of B. J. Kromholz to require that he be allowed to displace onto the Signal Maintainer position at Oceanside, California, and for payment of all lost time and benefits, including overtime, beginning January 22, 1996, and for continuing until he is allowed to exercise his seniority, account Carrier violated the current Signalmen’s Agreement, particularly Rules 13 and 16 and the Letter of Understanding dated September 12, 1994, when it did not allow the Claimant to displace a junior employee on the position in question. Carrier’s File No. NEC-BRS(W)-SD-729. General Chairman’s File No. SWGC-1250. BRS File Case No. 10194-NRPC(P).”

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 employee 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 were given due notice of hearing thereon.

Claimant was employed on the Carrier's Los Angeles Metrolink line as a signal maintainer at all material times herein. His position was abolished on December 31, 1994 and he was placed on furlough. Subsequently, on January 12, 1996 the Claimant sought to displace junior employees employed in the same positions on another line pursuant to a memorandum of understanding with the Organization that those employees would be protected for a one year period ending September 12, 1995. His efforts to do so were rejected by the Carrier and he thereupon filed this claim.

The Organization argues that although the Claimant did not seek to displace the junior employees in question within ten calendar days after his position was abolished, as required by Rule 13, he should have been permitted to displace those employees by operation of the memorandum of understanding between it and the Carrier immunizing those positions from his attempts for a period of one year. Thus, the impact of Rule 13 was altered by its interaction with the memorandum of understanding.

We disagree. In reaching that conclusion we do not pass on the Organization's contention that when Rule 13 and the memorandum of understanding are read together they stand for the proposition that the Claimant had an additional ten calendar days after the expiration of the one year protection period and indeed, we will assume for the sake of argument that to be the case. The fact of the matter is that the Claimant sought to displace the junior employees more than ten days after the end of the one year protection period. Thus, even if the Organization is correct on its reading of the relevant agreements, the facts do not support a finding of a contract violation and we so hold.

AWARD

Claim denied.

Form 1
Page 3

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ORDER

This Board, after consideration of the dispute identified above, hereby orders that an Award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 22nd day of September 1999.