

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 42787  
Docket No. MW-43445  
17-3-NRAB-00003-160141**

**The Third Division consisted of the regular members and in addition Referee Barry E. Simon when award was rendered.**

**PARTIES TO DISPUTE:** (Brotherhood of Maintenance of Way Employees Division -  
( IBT Rail Conference  
(  
(CSX Transportation, Inc.

**STATEMENT OF CLAIM:**

**“Claim of the System Committee of the Brotherhood that:**

- (1) The Agreement was violated when, starting March 25, 2014 and continuing, the Carrier abolished the foreman position on Team 6F34, allowed junior employees to work the vacancy and failed to properly rebulletin the position (System File B17179114/2014-168646 CSX).**
- (2) As a consequence of the violation referred to in Part (1) above, Claimant S. Ketchum shall now be compensated two hundred twenty (220) straight time hours and one hundred four (104) overtime hours at the applicable rate of pay.”**

**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.**

**The essential facts in this case are not in dispute. On March 25, 2014 the Carrier abolished the Foreman position on Team 6F34, formerly held by D. W. Jackson, who is**

junior to Claimant. Although the position had been abolished, the Carrier continued to employ Jackson as the Foreman on Team 6F24. Because this continued for more than 20 days beyond the abolishment of the position, the Organization asserts the Carrier was required to bulletin a vacancy on the position.

The Carrier argues Claimant could have exercised displacement rights over Jackson to work the temporary vacancy. While he might have been able to do so during the period it was, in fact, a temporary vacancy, once the vacancy continued past 20 days the Carrier had an obligation to bulletin it in accordance with Rule 3, Section 3(a), which states:

“All positions and vacancies will be advertised within thirty (30) days previous to or within twenty (20) days following the dates they occur. The assignment shall show position title, rate of pay, headquarters, tour of duty, rest days and designated meal period.”

Once the Carrier had an obligation to bulletin the vacancy, Claimant had a right to bid upon the vacancy. By not issuing the bulletin as required by the Agreement, the Carrier deprived him of that right. Because it violated the Agreement, the Carrier shall compensate Claimant the difference between what he earned and the earnings of any junior employee who performed the work on the unbulletined vacancy subsequent to the 20th day following the abolishment.

### **AWARD**

Claim sustained in accordance with the Findings.

### **ORDER**

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Dated at Chicago, Illinois, this 28th day of November 2017.