

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 44619  
Docket No. MW-45684  
22-3-NRAB-00003-190663**

**The Third Division consisted of the regular members and in addition Referee Edwin H. Benn when award was rendered.**

**(Brotherhood of Maintenance of Way Employees Division -  
(IBT Rail Conference**

**PARTIES TO DISPUTE: (**

**(The Kansas City Southern Railway Company**

**STATEMENT OF CLAIM:**

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

- (1) The Agreement was violated when, beginning on April 6, 2018 and continuing, the Carrier assigned junior employees to operate equipment on SPG 506 instead of assigning senior Machine Operator R. Hunter thereto [System File 18 04 06 (025)/K0418-7653 KCS].**
- (2) As a consequence of the violation referred to in Part (1) above, Claimant R. Hunter shall be compensated ‘... ten (10) hours per day at the regular Machine Operator rate of pay until he is allowed to operate his choice”**

**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.

At the relevant time, the Claimant was assigned as a Machine Operator on System Production Gang 506. On April 6, 2018, the Claimant desired to exercise his seniority to operate a machine of his choice assigned to junior employees, which request was denied by his Foreman.

The Production Gang Agreement provides at paragraph 1(b)(3) [emphasis added]:

“1. ...

- (b) Seniority for purposes of assignment to positions and other exercises of seniority within the gangs shall be determined on the basis of each employee’s relative standing on the “System Production Bid and Displacement List” (hereafter the “List”). The List shall be created as follows:

\* \* \*

- (3) Except as otherwise provided, an employee may exercise seniority to a position for which he is qualified in a gang established under this Agreement based upon his or her relative ranking on the List.”

The claim lacks merit. The above-quoted provisions allow the Claimant to exercise his seniority to “position[s]” and not to “machine[s]” as the Claimant seeks. Moreover, there is no evidence that the Organization objected to the manner in which the “position” was posted. The Claimant received his Machine Operator pay for that position. Under the facts presented, the Claimant had no right to use his seniority to select the machine of his choice.

**AWARD**

Claim denied.

**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 15<sup>th</sup> day of December 2021.