

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 45658
Docket No. MW-48484
26-3-NRAB-00003-240161

The Third Division consisted of the regular members and in addition Referee Michael G. Whelan when award was rendered.

(Brotherhood of Maintenance of Way Employees Division –
(IBT Rail Conference

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 denied Mr. L. Jepson his requested release from his regular assignment as a temporary machine operator on the non-headquartered Cross-System P4 Rail/Tie Crew (SOORAIL1/3145) after he was the successful applicant on Bulletin #156A for a temporary Group 1, Rank (c) carpenter position non-headquartered on the Harvey Bridge and Building (B&B) crew (BBHARVEY/4343) on April 25, 2022 and desired to report to said awarded position within twenty (20) calendar days from the date of his assignment, in accordance with Rule 10(h) (System File C-54-22-270-09/2022-00029547 SOO).
- (2) As a consequence of the violation referred to in Part (1) above, Claimant L. Jepson shall now receive ‘... a promotional seniority dating of April 25, 2022, as a Group 1, Rank (c) Carpenter and all other lower ranks within the B&B sub-department and the differential in pay between all straight-time and overtime which he earned as a Group 4, Rank (a) Machine Operator and that to which he was entitled as Group 1, Rank (c) Carpenter beginning May 16, 2022, and continuing through July 14, 2022.’”

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.

This dispute involves whether the Carrier violated Rule 10(h) of the Agreement when it did not release the Claimant from his regular assignment within 20 calendar days after he was the successful applicant on Bulletin #156A on April 25, 2022, thereby denying the Claimant his promotional seniority dating of April 25, 2022, as a Group 1, Rank (c) Carpenter and all other lower ranks within the B&B sub-department and any differential in pay between these positions. There is no dispute that the Claimant requested to be released after he was the successful applicant on Bulletin #156A on April 25, 2022, and that the Carrier held him in his former position beyond 20 calendar days from the date of his new assignment.

Rule 10(h) states:

An employe making application for and who is assigned to a bulletined position must take the position within twenty (20) calendar days from the date of assignment, unless he is prevented from doing so because of illness or other reasonable cause.

During the twenty (20) calendar day period referenced above, an employe assigned to a bulletined position who requests to be released from his former assignment to take such position may be held to perform temporary relief on his former assignment in the event no qualified relief is available. When qualified relief is available to protect the former assignment, the employe must be permitted to take the new assignment.

An employee who fails to take a position to which assigned by bulletin will forfeit all rights to such position and the position will be rebulletined.

The Carrier contends that the language in Rule 10(h) permits it to hold an employe beyond the 20-day period when no qualified relief is available. This argument is not persuasive because this language plainly requires the employe to take the bulletined position within 20 days, and if the employe requests to be released from his former assignment to do so, the Carrier's ability to hold the employe over is limited to 20 days. This reasoning is consistent with on-property awards addressing the same issue, where the Board also found that the right to hold over an employe provided in the second paragraph of Rule 10(h) is not for an indefinite period. Third Division Awards 40434, 38203, and 35437. Thus, it is concluded that the Carrier violated the Agreement when it held over the Claimant for more than 20 days.

As a remedy for this violation, the Claimant shall receive a promotional seniority dating of April 25, 2022, as a Group 1, Rank (c) Carpenter and all other lower ranks within the B&B sub-department. The Claimant shall also be made whole for any compensation he would have been entitled to earn if he had been permitted to work in the promotional assignment. Therefore, the Claimant shall be compensated for any positive pay differential for all straight-time and overtime he earned as a Group 4, Rank (a) Machine Operator and that to which he would have been entitled to earn as Group 1, Rank (c) Carpenter beginning May 16, 2022, and continuing through July 14, 2022. To the extent that there is any dispute over the amount of straight time and overtime hours the Claimant would have been entitled to earn as a Group 1, Rank (c) Carpenter, the Claimant is to be made whole by means of a joint review of the Carrier's records.

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 20th day of March 2026.