

**PUBLIC LAW BOARD NO. 6920**

AWARD NO. 7

CASE NO. 7

Carrier File: M0404-5887

Organization's File: KCS.MS.SRC.C060604.Evans

PARTIES TO  
THE DISPUTE:

Brotherhood of Maintenance  
of Way Employees

vs.

Kansas City Southern Railway Company

ARBITRATOR      Gerald E. Wallin

DECISION:          Claim denied

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

1. The Carrier violated the June 30, 2000 Arbitrated Agreement when it failed and refused to allow Machine Operator Murphy Evans to displace onto Gang 506 on Monday, June 7, 2004 at Meridian, Mississippi (System File C060604/MO404-5887).
2. As a consequence of the violation referred to in Part (1) above, Machine Operator Murphy Evans ‘... should be allowed the Kansas City Southern Railway Company collective bargaining Agreement Machine Operator rate of pay for each straight time hour worked as well as every overtime hour worked by Gang 506. Mr. Evans should also receive all other provisions governed by the ‘collective bargaining agreement. Finally, he should be allowed to displace onto Gang 506 immediately. \*\*\*”

FINDINGS OF THE BOARD:

The Board, upon the whole record and on the evidence, finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended; that this Board is duly constituted by agreement of the parties; that the Board has jurisdiction over the dispute, and that the parties were given due notice of the hearing.

The operative facts of this claim record are not in dispute. The parties have an Arbitrated Agreement that provided for the operation of two system production gangs over the Carrier's merged system without restrictions based on previously existing seniority district boundaries. The Arbitrated Agreement also established the process by which a System Bid and Displacement List (the “List”) would be created. The List dovetailed each employee's district seniority into an order of relative

standing. In addition, the Arbitrated Agreement provided, in Section 2b., that "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 [List]." Finally, Section 2c. of the Arbitrated Agreement established a so-called 15-Day Rule as follows:

Whenever a Gang established under this Agreement enters either the MSR territory or the combined KCS/L&A territory, employees holding seniority rights in that territory who do not hold assignments in the Gang may, within fifteen (15) days of the Gang entering the territory, exercise seniority to displace an employee from another territory in the Gang occupying a position in the classification in which the displacing employee holds seniority.


On June 7, 2004, one of the system gangs moved into the former MSR territory where Claimant held seniority. On June 9, 2004, Claimant faxed a note to a Carrier official requesting to be relocated to Gang 506 per the 15-day rule.

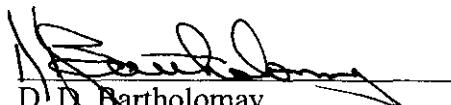
Although the instant claim raises multiple seniority issues, we need not deal with all of them. It is clear that Claimant's request did not identify either the classification or the position to which he wanted to exercise his seniority. After Carrier's official pointed out the lack of specificity in his request, Claimant failed to supply any clarifying information to identify the target of his intended displacement.


Given the foregoing circumstances of this record, we must find that the Organization and Claimant have not sufficiently proven that Carrier violated the Arbitrated Agreement as alleged in the claim.

AWARD:

The Claim is denied.

  
Gerald E. Wallin, Chairman  
and Neutral Member

  
D. D. Bartholomay,  
Organization Member

  
J. G. Albano,  
Carrier Member

Date: 6-12-04