

**PUBLIC LAW BOARD NO. 7201
CASE NO. 3**

PARTIES TO THE DISPUTE: |
|
|and
|
|Soo Line Railroad Company
|(former Chicago, Milwaukee, St. Paul and
|Pacific Railroad Company)

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood that:

- (1) The Carrier violated the Agreement when it failed and refused to provide or allow Foreman K. F. Kruser the meal allowance, camper allowance and travel allowance while he was assigned to the Bolt Tightening Crew working the Chicago Service Area beginning on May 14, 2001, and continuing through July 22, 2001. (System File C-22-01-120-01/8-00319-380 CMP).
- (2) As a consequence of the violation referred to in Part (1) above, Claimant K. F. Kruser shall now receive the applicable meal allowance, camper allowance and travel allowance for the period beginning May 14, 2001 and continuing through July 22, 2001. "

FINDINGS:

The Board, upon consideration of the entire record and all of the evidence, finds that the parties are Carrier and Employee within the meaning of the Railway Labor Act, as amended; that this Board is duly constituted by Agreement; this Board has jurisdiction over the dispute involved herein; and that the parties were given due notice of the Hearing held.

On April 9, 2001, the Carrier issued Bulletin #S-57 advertising an extra gang foreman position for a non-headquartered bolt tightening crew "starting" at Sturtevant, Wisconsin working the Chicago Service Area. Claimant submitted a bid for and was awarded the position. Claimant was scheduled to report for duty on May 12, 2001 and work under the supervision of TMS Poeschel. Prior to reporting for duty, Claimant allegedly received information from Poeschel indicating that the

bolt tightening gang would not be considered a non-headquartered gang, but instead would be considered a headquartered gang. Thus Claimant would not receive any per diem meal, lodging or travel allowance. Claimant allegedly indicated his desire to rescind his bid for the position. However, while he ultimately bid for a non-headquartered machine operator position on a non-headquartered gang, Claimant nonetheless was required to work on the headquartered gang from May 14, 2001 through July 22, 2001.

The Organization contends that the Agreement was violated when Claimant was denied his meal, lodging and travel expenses for the period of May 14, 2001 through July 22, 2001. The position was originally advertised as a non-headquartered assignment and as such, Claimant was entitled to meals, lodging and travel expenses. It was only when Claimant arrived for the work that he found out that the work was headquartered at Sturtevant, Wisconsin and thus no such expenses would be paid. The Organization claims that Claimant was falsely led to believe that this was a non-headquartered position. As a remedy, the Organization contends that Claimant should receive the amount of his lodging, travel and meal expenses for the period of May 14, 2001 through July 22, 2001.

Conversely, the Carrier takes the position that the Organization cannot meet its burden of proof in this matter. The Carrier contends that when Claimant arrived for work in May, he was told that the gang would be a headquartered gang, beginning and ending each day in Sturtevant, Wisconsin. According to the Carrier, Claimant did not complain then, or at any other time while working on the headquartered gang. There was no attempt at deceit and it is clear that Claimant worked without reservation. The Carrier asks that the Claim be denied.

After a review of all the relevant evidence, this Board finds that the Organization has been successful in meeting its burden of proof. It appears that the initial bulletin indicates that the gang was a non-headquartered gang and Claimant was not informed otherwise until he arrived to begin work. In addition, when the position was re-bulletined, the bulletin indicated that the position was headquartered at Sturtevant, Wisconsin, clearly indicating that travel was not reimbursed. It is clear that the Rule regarding expenses provides for no entitlement to expenses in the context of a headquartered gang. In the instant case, it is apparent that Claimant bid to the position with the understanding that it was a non-headquartered gang. As such, he would have been entitled to reimbursement.

Thus, based on this error, the Claim is sustained. Claimant shall be reimbursed for his actual meal, lodging and travel expenses for the period during which he was assigned to the Gang, May 12, 2001 through July 22, 2001.

The Claim is sustained.

AWARD

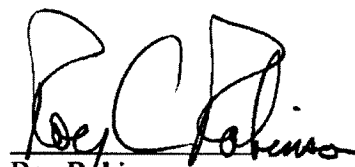
Claim sustained.

**Steven
Bierig**

Digitally signed by Steven Bierig
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Date: 2010.06.14 13:27:18 -0500

Steven M. Bierig
Chairperson and Neutral Member


Bjarne Henderson
Carrier Member


Roy Robinson
Organization Member

Dated at Chicago, Illinois this 14th day of June 2010.