

PUBLIC LAW BOARD NO. 1838

Award No. 38

Carrier File MW-WS-78-6

Parties Brotherhood of Maintenance of Way Employees
to and

Dispute Norfolk and Western Railway Company

Statement

of Claim: The employes request that Claimant D. C. Secrist be paid machine laborer's rate of pay, beginning with December 23, 1977, and continued as long as Rule 16 of the Maintenance of Way Agreement continues to be violated.

Findings: The Board, after hearing upon the whole record and all evidence, finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, that this Board is duly constituted by Agreement dated March 1, 1976, that it has jurisdiction of the parties and the subject matter, and that the parties were given due notice of the hearing held.

The instant case was instituted by the General Chairman, by letter dated January 16, 1978, which, in pertinent part, reads:

"We have been informed by the above named claimant that he tried to displace V. W. Poindexter as a machine laborer on L. P. Good's crane on the Shenandoah Division on December 23, 1977. He was told that he could not displace Mr. Poindexter, even though he is the senior employee. D. C. Secrist's seniority date is April 23, 1969; V. W. Poindexter's date is September 7, 1976.

In view of the above, we are requesting that D. C. Secrist be paid machine laborer's rate of pay beginning with December 23, 1977, and consider this as a running claim so long as this violation continues to exist.

We are citing Rule 16 of the current M/W Agreement as well as any other rule which might pertain thereto in support of this request."

The claim was denied in pertinent part reading:

"Initially, we find your presentation of this matter to be vague and lacking sufficient information to enable the Carrier to determine

either the nature of the alleged violation of which claimed or the agreement provision upon which you wish to rely in establishing Claimant's entitlement to the unearned compensation in question.

Under the circumstances, we find there has been no violation of Rule 16 nor any other rule of the current working agreement; and this claim is, therefore, declined...."

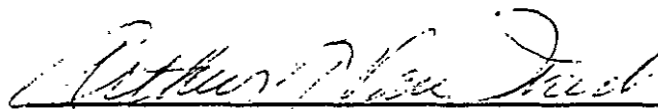
The record reflects that it had been explained that Mr. Poindexter was no longer working as a machine laborer on L. P. Good's crane and that he had been assigned to operate another crane of the same type.

Consequently, since no employee was in filling the position as machine laborer on crane 518647 there was no basis for the claim. In such circumstances, we find the claim to have no merit. It will, therefore, be denied.

Award: Claim denied.


A. D. Arnett, Employee Member


G. C. Edwards, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member