

Award No. ³⁵
Cases 37 and 48

Public Law Board No. 2778

PARTIES
TO
DISPUTE:

Brotherhood of Maintenance of Way Employes
and
The Baltimore and Ohio Railroad Company

STATEMENT
OF
CLAIMS:

1. Carrier violated the Schedule Agreement on December 13, 14, 15, 18, 19, 20, 21 and 22, 1978, when a junior trackman was temporarily assigned to perform work that Claimant R. L. Pittman properly requested (Case No. 37).
2. The Carrier further violated the Schedule Agreement on January 11 and 12, 1979 when a junior trackman was temporarily assigned to perform work that Claimant Pittman properly requested (Case No. 48).
3. Claimant R. L. Pittman, Trackman, be allowed travel time at the rate of 30 miles per hour at trackman's rate of \$6.9321 for those dates in December and \$7.1821 for January 11 and 12, 1979, and mileage at the rate of 15 cents per mile for each mile he was required to travel due to the Carrier's failure to allow him to exercise his seniority.

FINDINGS:

These claims for travel time and mileage allowance

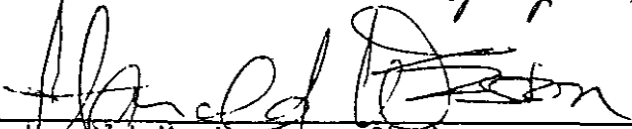
are based on the contention that claimant rather than furloughed trackmen should have been used to fill vacation vacancies. Petitioner relies on Rule 40(a); that provision reads as follows:

"(a) Promotions or assignments to new positions or to fill vacancies will be made after bulletin notice has been posted for a period of ten (10) days at the headquarters of the gangs in the sub-department of employees entitled to consideration in filling the positions, during which time employees may file their applications with the official whose name appears on the bulletin. Appointment of the senior qualified applicant will be made before the expiration of twenty (20) days from the date the bulletin is posted and the name of the employee selected will then be furnished to the foremen and Local Chairmen. New positions or vacancies if filled temporarily pending permanent appointment will be assigned to senior qualified employees upon request."

Rule 40(a) is not applicable to the present case. As pointed out in Award 10 of Public Law Board 1210, the language of that rule was designed to cover situations leading to permanent assignments and not a position which the permanently assigned employee would be entitled to reoccupy upon his return from vacation. The rule does not apply to vacation vacancies.

AWARD: Claims denied.

Adopted at Baltimore, Md. July 13, 1984.


Harold M. Weston, Chairman


Carrier Member


Employee Member