

PUBLIC LAW BOARD NO. 2960

AWARD NO. ¹⁴¹
CASE NO. 207

PARTIES TO DISPUTE

Brotherhood of Maintenance of Way Employees
and

Chicago and North Western Transportation Company

STATEMENT OF CLAIM:

Claim of the System Committee of the Brotherhood that:

- (1) The Carrier violated the Agreement when it assigned employes from Seniority District B-8 to perform work on Seniority District B-3.
- (2) Seniority District B-3 B&B employes J. D. Norden, W. J. Borden, K. Sudano, W. K. Weitzel, R. J. Palley, H. T. Harbers, D. C. Reagan, R. L. Jadsall, J. F. Pribble, J. J. Job, J. M. Naughton, R. D. Davis, J. A. Pope, S. J. Smith, T. S. Templeton, R. J. Dillin, B. D. Asselin and R. H. Greul shall be compensated for an equal and proportionate share of the 1,006 hours' straight time rate and 509 hours' time and one-half rate expended by Seniority District B-8 employes."

OPINION OF THE BOARD:

This Board, upon the whole record and all of the evidence, finds and holds that the Employee and Carrier involved in this dispute are respectively Employee and Carrier within the meaning of the Railway Labor Act, as amended, and that the Board has jurisdiction over the dispute involved herein.

The basic facts are undisputed. The Carrier utilized B&B personnel from District B-8 to assist District B-3 B&B personnel in the installation of a new station platform. The platform at the Glen Ellyn, Illinois station needed

replacement and the Carrier needed to perform the work prior to the start of inclement weather. Construction work began on November 11, 1985 and continued through to December 6, 1985. Also, commuters continued to use the station during the construction.

It is also undisputed that the B-8 employees worked in the B-3 District for less than thirty days. There were no furloughed B&B personnel in Seniority District B-3. All other crews on District B-3 were employed on other projects.

Even so, the Organization argues that the Carrier could have postponed the work the other B-3 crews were doing and assigned them to the station project. It is maintained, that these other projects could have been completed later. In not doing so, the Union argues the Carrier denied work opportunities to the Claimants. For instance, some of the Claimants were furloughed shortly after the station project and under the Union's theory, would not have had to be furloughed.

This case involves the application of Rule 11(b) which reads as follows:

RULE 11 - TRANSFERS

"(b) An employe may be temporarily transferred by the direction of the Company for a period not to exceed six (6) months from one seniority district to another, and he shall retain his seniority on the district from which transferred. Such employe shall have the right to work temporarily in his respective rank on the district to which transferred, if there are no qualified "available" employees on the district. The six (6) month period may be extended by agreement between the Company and the General Chairman. When released from such service the employe shall return to his former position."

This rule has been subject to claims before which have been sustained on the basis of lost work opportunities when a crew from a seniority district is transferred across seniority district lines.

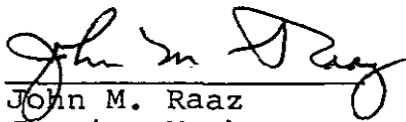
However, under the circumstances of this case, the claim cannot be sustained. The urgency of finishing the station is a significant factor. Moreover, while some of the other work could have been postponed by admission of the Organization, some of it could not, (see p. 7 of Employees Exhibit A-6). When this is considered, along with the fact that only 2 of the 17 Claimants were furloughed at all during the winter in question, we are not convinced that the Carrier's action caused any of the Claimants to lose any work opportunities.

AWARD:

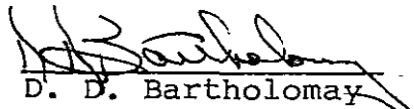
The claim is denied.



Gil Vernon, Chairman



John M. Raaz
Carrier Member



D. D. Bartholomay
Employee Member

Dated: Nov. 1, 1989