

PUBLIC LAW BOARD NO. 2960

AWARD NO. 145
CASE NO. 218

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 allowed a junior Class B Machine Operator to operate an anchor machine instead of assigning Machine Operator M. Whitaker (Organization File 9KB-4252 T; Carrier File 81-87-18).
- "2. Claimant M. Whitaker shall be compensated the differential between trackman and 903 machine operator for all hours worked by the junior employee commencing October 14, 1986."

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.

This case involves the application of Rule 16(b) which states in relevant part as follows:

"(b) Vacancies of less than thirty (30) calendar days duration may be filled without bulletining by the senior qualified employees in the district and group making request in writing, consistent with operational requirements."

We note that in the handling of the Claim on the property, a factual dispute arose as to whether the Claimant had made a specific request to work the machine in question, as the Union asserts, or as the Carrier asserts, whether he simply made a general inquiry as to why he couldn't be working on the rail gang. In either event, there is no dispute that, regardless of the nature of the Claimant's request, it was not done in writing as required by the Rule.

It is clear that Rule 16(b) requests must be done in writing. This isn't a meaningless technicality to be overlooked by the Board. The Parties wrote such a requirement for a purpose and no doubt one of the reasons was to avoid factual controversies, like the one which arose early in this case.

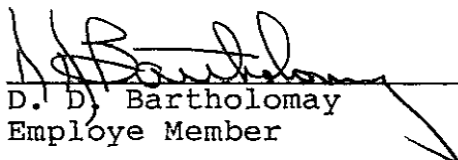
In summary, since there was no valid 16(b) request made, the Claim must be denied.

AWARD

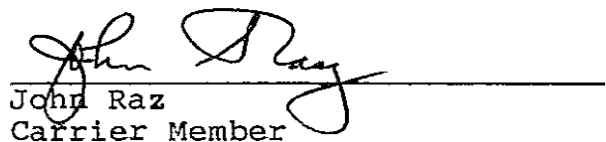
The Claim is denied.



Gil Vernon, Chairman



D. D. Bartholomay
Employee Member



John Raz
Carrier Member

Dated: 4-30-90