

PUBLIC LAW BOARD NO. 2960

AWARD NO. **146**
CASE NO. 215

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 failed to allow Machine Operator J.R. Marsh to fill a temporary vacancy at Iowa Falls, Iowa, from July 28 through August 15, 1986 (Organization File 4SW-1138 T; Carrier File 81-86-140).

"2. Claimant J.R. Marsh shall be allowed the differential between the 902 and 903 rate of pay plus the differential in the hours of service rendered by the assigned junior employee. Claimant shall also be allowed 15 hours travel time plus the prevailing mileage rate for 840 miles."

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 not disputed. On or about July 15, 1986, a vacancy on the Speed Swing Operator's position located at Iowa Falls, Iowa, occurred due to the incumbent operator D.M. Fox occupying a temporary Machine Operator's position at Clarion, Iowa, pending bulletining of that position. The Carrier used the

senior furloughed machine operator, J.O. Vosburgh, from that seniority zone (Zone D). The Claimant, who has more seniority than Vosburgh, at the time, was assigned as a Machine Operator on a tie crane at Trimont, Minnesota, in Zone C. The Claimant submitted a written request to fill the speed swing vacancy under the provisions of Rule 16(b) dated July 29, 1986, which was not received by the Carrier until August 4, 1986. The position was permanently filled on August 15, 1986.

The relevant portion of Rule 16(b) states:

"(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."

The Carrier defends not granting the Claimant's request based on operational requirements. Specifically, they contend they couldn't release the Claimant from Zone C since there was no one to replace him. In response to this the Organization only stated that Mr. Vosburgh could have been used to relieve the Claimant. The Carrier responded that Vosburgh didn't have Zone D seniority.

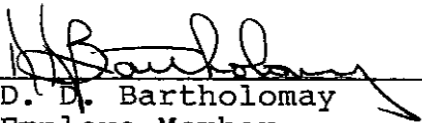
Based on the foregoing, the Board finds no reason to conclude that the Carrier didn't appropriately determine that operational requirements prevented the temporary assignment of the Claimant to the job in question.

AWARD

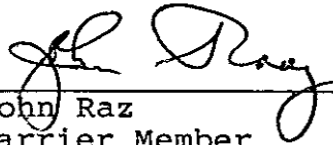
The Claim must be denied.



Gil Vernon, Chairman



D. D. Bartholomay
Employee Member



John Raz
Carrier Member

Dated: 4-30-90