

PUBLIC LAW BOARD NO. 4104

Case No. 19/Award No. 19

PARTIES TO DISPUTE: Brotherhood of Maintenance of Way Employees
vs.
Burlington Northern Railroad Company

STATEMENT OF CLAIM:

1. The Carrier violated the Agreement when it called and used junior furloughed sectionmen to perform snow removal work on December 24, 25 and 26, 1982, instead of calling and using furloughed Sectionman R. Burkitt, who was senior, available and willing to perform that service.

2. As a consequence of the aforementioned violation, Claimant R. Burkitt shall be allowed forty-four (44) hours of pay at the sectionman's time and one-half rate in effect on the claim dates."

OPINION OF BOARD: The relevant facts of this claim are not in dispute. Claimant R. Burkitt was a Section Laborer in the Track Sub-department of Carrier's Denver, Colorado facility. Claimant held greater seniority than other more junior sectionmen. Claimant was on furlough during the dates in question.

The facts of this claim are essentially the same as those set forth in PLB No. 4104, Case Nos. 16 and 17. We will not repeat them here. Suffice it to say that on December 23 and 24, 1982, a blizzard blanketed the Denver area. On December 24 to 26, 1982, employees with seniority less than that of Claimant were called in to perform 44 hours of snow removal work.

On February 17, 1983 the Organization filed the instant claim alleging that Carrier had improperly assigned snow removal work to employees with less seniority than Claimant in violation of Rules 2 and 29. Carrier timely denied this allegation.

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Thereafter, the claim was handled in the usual manner, on the property. It is now before this Board for adjudication.

The arguments of the parties were essentially the same as those set forth in the aforementioned cases (PLB Nos. 4104, Case Nos. 16 and 17).

After carefully considering the record evidence, this Board concludes that Claimant is entitled to compensation in the amount of \$75. This sum is reasonable and warranted under the facts of this case. It is so awarded. Thus, the claim is sustained to this extent.

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FINDINGS: The Public Law Board No. 4104 upon the whole record and all of the evidence, finds and holds:

That the Carrier and the Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act as approved June 21, 1934;

That the Public Law Board No. 4104 has the jurisdiction over the dispute involved herein; and

That the Agreement was violated in part.

AWARD:

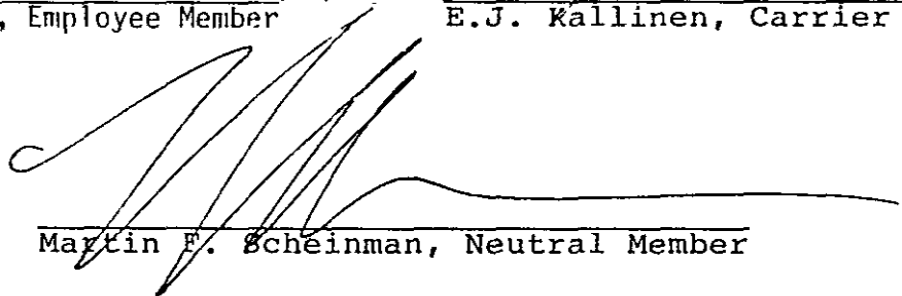
Claim sustained to the extent indicated in the Opinion.



P. S. Swanson, Employee Member



E. J. Kallinen, Carrier Member



Martin F. Scheinman, Neutral Member