

PUBLIC LAW BOARD NO. 4104

Case No. 21/Award No. 21 + 25

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 allowed furloughed Section Laborer L. Calhoun to perform snow removal work from 11:00 p.m., December 29, 1982 until 7:30 a.m., December 30, 1982, instead of permitting furloughed Section Laborer N. Bailey senior, available and willing to perform that service.

2. As a consequence of the aforementioned violation, Claimant N. Bailey shall be allowed an additional four (4) hours of pay at the sectionman's straight time rate and four (4) hours of pay at the sectionman's time and one-half rate in effect on the claim date."

OPINION OF BOARD: The relevant facts of this claim are not in dispute. Claimant was a Section Laborer in the Track and Sub-department of Carrier's Denver, Colorado facility. Claimant, N. Bailey held seniority as of September 7, 1978.

The facts of this claim are similar to those set forth in P.B 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 severe blizzard blanketed the Denver, Colorado area. Claimant, on furlough at the time, was called back to work on December 29 in order to aid in snow removal. After 4 hours of work Claimant was returned to furlough. However, junior sectionman Calhoun continued to work for 8 additional hours.

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On January 6, 1983 the Organization filed the instant claim alleging that Carrier improperly permitted Mr. Calhoun to work 8 hours longer than Claimant, despite the fact that Claimant had greater seniority, in violation of Rules 2 and 29. Carrier timely denied this allegation. Thereafter, the claim was handled in the usual manner on the property. It is now before this Board for adjudication.

The Organization urges that as Claimant was the senior employee he should have been permitted to perform the additional 8 hours work rather than Mr. Calhoun. Accordingly, the Organization asks that the claim be sustained.

Carrier, on the other hand, submits that due to the emergency weather conditions and the disparate locations of the two employees, it was not required to relocate Claimant in order that he complete the work which Calhoun had been performing. Accordingly, Carrier asks that the claim be denied.

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:

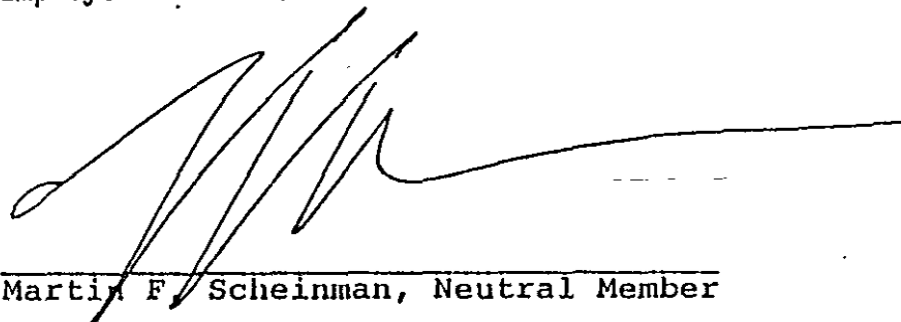
Claim sustained to the extent indicated in the Opinion.



P. S. Swanson, Employee Member



E.J. Kallinen, Carrier Member



Martin F. Scheinman, Neutral Member