

PUBLIC LAW BOARD NO. 5905

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES )  
and ) Case No. 3  
ELGIN, JOLIET AND EASTERN RAILWAY COMPANY ) Award No. 3

Martin H. Malin, Chairman & Neutral Member  
D. D. Bartholomay, Employee Member  
J. F. Ingham, Carrier Member

Hearing Date: December 15, 1997

STATEMENT OF CLAIM:

Claim of the System Committee of the Brotherhood that:

1. The Agreement was violated when the Carrier abolished B&B Painter O. Johnson's position and thereafter, beginning on January 7, 1992, it assigned Painter Foreman T. J. Woynaroski to perform painter's work instead of recalling and assigning a painter to perform such work (System File BG-659-92/TM-2-92) .
2. As a consequence of the violation referred to in Part (1) above, Claimant O. Johnson shall be recalled to service and compensated for all wage loss suffered as a result of the Carrier abolishing his position and allowing an employe in a higher classification (foreman) to perform painter's work beginning January 7, 1992 and continuing until the violation ceases.

**FINDINGS:**

Public Law Board No. 5905, upon the whole record and all the evidence, finds and holds that Employee and Carrier are employee and carrier within the meaning of the Railway Labor Act, as amended; and, that the Board has jurisdiction over the dispute herein; and, that the parties to the dispute were given due notice of the hearing thereon and did participate therein.

Effective January 3, 1992, the jobs of Claimant and ten other B & B Subdepartment employees were abolished in a reduction in force. Carrier retained the painter foreman who continued to

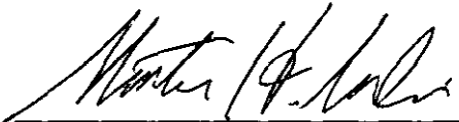
work his assigned position, even though there were no employees working under his supervision. The laid off employees were recalled in March 1992. The Organization maintains that the retention of the painter foreman instead of the senior painter violated several rules of the Agreement.

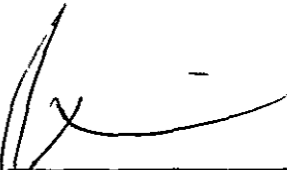
Carrier has raised several procedural objections to the instant claim. Because we decide the claim on the merits, we see no need to decide these procedural issues.

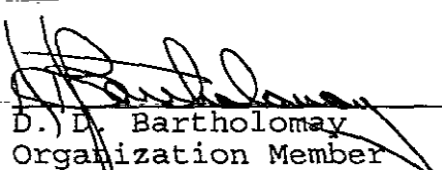
The record makes clear that, on this property, foremen are working foremen and it has been the parties' long-standing practice to retain the working foreman rather than the senior painter in a reduction-in-force. Accordingly, we find that there was no violation of the Agreement in the instant case.

#### AWARD

Claim denied.

  
Martin H. Malin, Chairman

  
G. F. Ingham  
Carrier Member

  
D. D. Bartholomay  
Organization Member

Dated at Chicago, Illinois, February 14, 1998.