

AWARD NO. 3
CASE NO. 3

PUBLIC LAW BOARD NO. 6218

PARTIES	)	BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
TO	)	
DISPUTE	)	UNION PACIFIC RAILROAD COMPANY (FORMER MISSOURI PACIFIC RAILROAD COMPANY)

STATEMENT OF CLAIM

Claim of the System Committee of the Brotherhood that:

1. The Agreement was violated when the Carrier failed and refused to allow Machine Operator J. H. Porter to displace a junior Machine Operator R. A. Klinger on Gang 3552 following the abolishment of his position on October 22, 1991 (Carrier's File 920159 MPR).

2. As a consequence of the violation referred to in Part (1) above, Machine Operator J. Porter shall be compensated for all wage loss suffered, between Trackman and Machine Operator, for October 28, 29, and 30, 1991, and in the future the right to displace junior employees from Tamperers, as his seniority would allow.

OPINION OF BOARD

On October 18, 1991, Claimant's Machine Operator position was

abolished. Claimant's attempt to displace a junior Machine Operator on a tamper was not allowed as the Carrier did not deem Claimant qualified on that particular machine. Claimant then displaced to a Trackman's position.

Under Rule 2(g), Claimant could exercise displacement rights over a junior employee "... if qualified for the position held by the junior employee" Determinations of the qualifications of employees rest within the Carrier's managerial prerogatives. There is nothing in this record to show that the Carrier's exercise of that prerogative was arbitrary or capricious. At most, the decision that Claimant was not qualified for the tamper was a debatable one. But a debatable decision is not an arbitrary one.

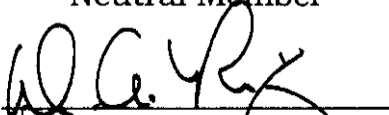
The claim shall be denied.

AWARD

Claim denied.



Edwin H. Benn
Neutral Member



Carrier Member



Organization Member

Chicago, Illinois

Dated: 7/31/02