

NATIONAL MEDIATION BOARD

PUBLIC LAW BOARD NO. 6302

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

and

UNION PACIFIC RAILROAD COMPANY

)
) Case No. 30
)
) Award No. 28
)

Martin H. Malin, Chairman & Neutral Member
D. D. Bartholomay, Employee Member
D. A. Ring, Carrier Member

Hearing Date: November 7, 2001

STATEMENT OF CLAIM:

1. The Agreement was violated when the Carrier:
 - (a) failed to assign either N. Harvey, J. W. Tom or D. W. Scott to the position of foreman on Curve Gang 9012, as advertised on Bulletin NSF02069 dated October 12, 1995 and
 - (b) improperly recalled Mr. R. L. O'Neil to said position which resulted in his Group 19 Class A Foreman's seniority being taken away from him (System File N-248/960140).
2. As a consequence of the violations referred to in Part (1) above:
 - (a) either N. Harvey, J. W. Tom or D. W. Scott shall be assigned to the foreman's position advertised on Bulletin NSF02069 *** that this bulletin must be corrected showing the proper assignment. Further, the successful applicant must be allowed any loss in wages or overtime because of this improper assignment. Further, this Claimant must be allowed any loss incurred because of away from home expense that would not have been experienced had he been assigned to the referred to position. *** and
 - (b) Claimant O'Neil must immediately have his seniority within Group 19 Class A restored and he must be compensated for any loss in wages or overtime incurred because of this inappropriate termination of this seniority.

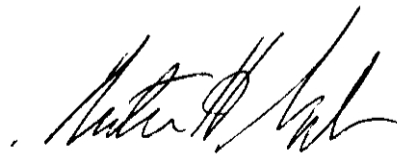
FINDINGS:

Public Law Board No. 6302, 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.

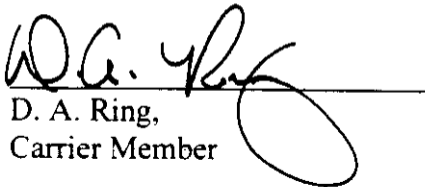
The instant case involves the same issues that were involved in Case No. 29, Award No. 27. For the reasons stated in that award, the claims must be denied.

AWARD

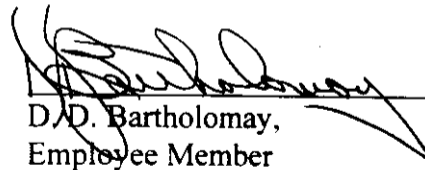
Claims denied.



Martin H. Malin, Chairman



D. A. Ring,
Carrier Member



D.D. Bartholomay,
Employee Member

Dated at Chicago, Illinois, March 20, 2002.