

AWARD NO. 212

Case No. 212

Organization File No. B15157212

Carrier File No. 2013-137838

**PUBLIC LAW BOARD NO. 7163**

PARTIES     ) BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES DIVISION,  
              )    INTERNATIONAL BROTHERHOOD OF TEAMSTERS  
TO            )  
              )  
DISPUTE     ) CSX TRANSPORTATION, INC.

**STATEMENT OF CLAIM:**

1.     The Agreement was violated when, commencing November 25, 2012 and continuing, the Carrier assigned junior Trackman R. Banks to continue working on Team 6F04 and did not allow Claimant T. Lawson to displace him.
2.     As a consequence of the violation referred to in Part 1 above, Claimant T. Lawson shall now be "... allowed all Straight time and all overtime hours plus expenses made by the junior employee at the respective rate..."

**FINDINGS:**

The Board, upon consideration of the entire record and all of the evidence, finds that the parties are Carrier and Employee within the meaning of the Railway Labor Act, as amended, that this Board is duly constituted by Agreement dated March 20, 2008, this Board has jurisdiction over the dispute involved herein, and that the parties were given due notice of the hearing held.

The Organization asserts Claimant expressed his intent to displace a junior employee, R. Banks, from a temporary trackman position on Team 6F04 sometime in November 2012. It alleges that Foreman E. Ragland contacted Claimant on Sunday, November 25, 2012, and told him not to report the following day because he would not be permitted to displace Trackman Banks. The

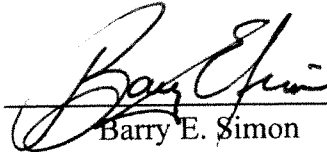
Organization has submitted this claim, arguing that Claimant was improperly denied the right to displace a junior employee.

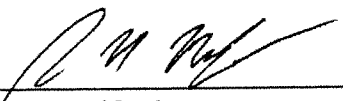
The Carrier responded that Banks was working as a Machine Operator on November 26, 2012, and Claimant did not have seniority over him in that class of service. Consequently, the Carrier argues that Claimant did not have a right under the Agreement to displace Banks.


Payroll records indicate that Banks was paid as a Machine Operator on November 26, 27 and 28, 2012. The records also reflect that he would work several days as a Production Trackman and then several days as a Machine Operator throughout the month of November. The Organization submits that these shifts in assignments were to permit Banks to remain employed and were the result of favoritism.

Based upon the record before us four years after the incident, it is impossible for this Board to make a determination that the work assignments were rigged to favor one employee over another. The fact that Banks' work assignments changed every few days does not establish that there was any improper handling. If the Organization believed that was happening, it should have addressed it with management at the time. Apparently, this was not done. Consequently, all we have before us is the fact that Banks worked as a Machine Operator on November 26. Because he had seniority over Claimant as a Machine Operator, Claimant could not displace him that day. We conclude, therefore, that the Organization has not met its burden of proving a violation of the Agreement.

AWARD: Claim denied.

  
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Barry E. Simon  
Chairman and Neutral Member

  
\_\_\_\_\_  
Andrew Mulford  
Employee Member

  
\_\_\_\_\_  
Rob Miller  
Carrier Member

Dated: 10/19/16  
Arlington Heights, Illinois