

PUBLIC LAW BOARD NO. 7566

BROTHERHOOD OF MAINTENANCE )  
OF WAY EMPLOYES DIVISION )  
IBT RAIL CONFERENCE )  
and )  
CANADIAN NATIONAL/WISCONSIN )  
CENTRAL LTD. )

Case No. 21  
Award No. 21

Claimant: C. Bertrang

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood that:

1. The Carrier violated Rule 11 of the Agreement beginning on March 17, 2011 when it allowed Employee B. Rickaby to displace beyond seven (7) days from the date released from his prior position thereby depriving Mr. C. Bertrang the opportunity to work his assigned position on March 18, 19, 20, 23 and 24, 2011 (Carrier's File WC-BMWED-2011-00016 WCR).
2. As a consequence of the violation referred to in Part 1 above, Claimant C. Bertrang shall be compensated for March 18, 19, 20, 23 and 24, 2011 for a total of forty (40) hours at the straight time rate of pay and any and all overtime accrued by the other members of his crew that would have been offered to the Claimant if he had not been improperly displaced."

**Findings:**

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier or employee within the meaning of the Railway Labor Act as approved June 21, 1934.

Public Law Board 7566 has jurisdiction over the parties and the dispute involved herein.

Parties to said dispute were given due notice of hearing thereon.

The Organization claims that Claimant was improperly displaced when Mr. Rickaby displaced Mr. Staley and Mr. Staley displaced Claimant. Mr. Rickaby's displacement was improper as it was outside the window for displacements and was disallowed. Consequently, Claimant was ordered to return to work on his next scheduled work day in his prior assignment. Because he was improperly displaced, the Organization argues that he is entitled to be paid for the days improperly displaced.

The Carrier counters that there is no proof of a violation because Claimant made an improper displacement on March 18, 2011 did not work March 19 or 20, and did not show up to work on March 23 and 24, 2011 due to a snow storm. He cannot show a violation of Rule 11 because he did not make the proper in-person displacement and chose not to come to work due to snow.

PLB No. 7566  
Case No. 21  
Award No. 21

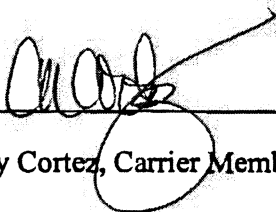
A review of the evidence indicates that the Organization has met the burden of proof. But for the Carrier initially allowing Mr. Rickaby's improper displacement, Claimant would not have been displaced. However, the requested relief is improper. Claimant did not return to work on March 23 and 24, 2011 due to a snow storm. That storm was a force of nature and not an act by the Carrier. Claimant should be paid for March 18 through 20, 2011.

**Award:**

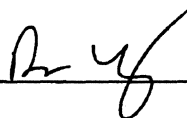
Claim sustained in part. Claimant shall, within thirty (30) days of the effective date of the Award, be paid for March 18, 19 and 20, 2011.



Brian Clauss, Chairman



Cathy Cortez, Carrier Member



Ryan Hidalgo, Organization Member

Signed on November 10, 2015