

**PUBLIC LAW BOARD NO. 7599**

AWARD NO. 138

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES )	
DIVISION - IBT RAIL CONFERENCE )	
)	
)	EX PARTE, CASE 138
)	
)	
GRAND TRUNK WESTERN RAILROAD COMPANY )	

ARBITRATOR: Gerald E. Wallin

DECISION:

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

1. The Agreement was violated when the Carrier refused to allow Mr. M. Belcher to exercise his Trackman seniority and work commencing November 4, 2022, in Flat Rock Yard, Toledo Division in Flat Rock, Michigan (Carrier's File GTW-BMWED-2022-00017 GTW).
2. As a consequence of the violation referred to in Part 1 above, Claimant M. Belcher shall now be compensated for all hours lost at his respected hourly rate of pay commencing on November 4, 2022 and continuing, given all benefits and credits for the claimed and permitted to return to work."

Carrier's Statement of the Claim:

*"...[the Claimant] will have his fair and impartial hearing following the proper procedures and rules of our current working agreement, (Rule 25.)"*

FINDINGS OF THE BOARD:

The Board, upon the whole record and on the evidence, finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended; that this Board is duly constituted by agreement of the parties; that the Board has jurisdiction over the dispute, and that the parties were given due notice of the hearing.

As the two versions of the Statement of Claim listed above suggest, the parties have significantly different views about the merits of the dispute.

Claimant established seniority under the Agreement long ago. In 2007, he accepted a management position, which he held until October 2022. Carrier removed him from that position for several alleged violations of Carrier's rules and policies. Claimant attempted to use his craft seniority on or about November 4, 2022 to return to a position under the Agreement but was refused by

Carrier. The Carrier's sole reason for its refusal was because Claimant was terminated from his managerial position he was not entitled to exercise his seniority and return to a Union position. The Organization position was that the Carrier was required to hold an investigation hearing per Rule 25 of the Agreement to deprive the Claimant of his seniority. No disciplinary hearing was held so the Organization filed the instant Claim.

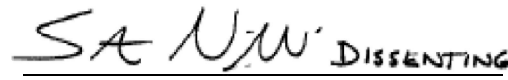
The Claim was handled in the usual manner on the property leading up to this Board's involvement.

This type of seniority claim has been reviewed by the NRAB as well as Public Law Boards many times going as far back as 1945. The prevailing line of decisions has agreed with the Organization's position in this case. Accordingly, the Carrier violated the seniority-related provisions of the Agreement. Therefore, we must sustain the Claim.

AWARD: The Claim is sustained. The Carrier is directed to comply with this Award within thirty (30) days of the date shown below.

  
Gerald E. Wallin, Chairman  
and Neutral Member

  
John Schlismann  
Organization Member

 SA NW DISSENTING  
Steve Napierkowski  
Carrier Member

DATED: JANUARY 10, 2025