

AWARD NO. 107
Docket No. 107

SPECIAL BOARD OF ADJUSTMENT NO. 279

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
versus
MISSOURI PACIFIC RAILROAD COMPANY

STATEMENT

OF CLAIM: Claim of the System Committee that:

1. The Carrier violated Rule 11(a) of the effective Agreement by failing to bulletin a temporary vacancy of Trackman in Extra Gang No. 1 within the time limits as prescribed by the rule.

2. Trackman K. L. DePew be now paid a total of \$108.30 for meals and lodging expenses incurred by reason of he having been deprived of his seniority right to bid in the vacancy referred to in Part 1 of this claim.

FINDINGS: Claimant was assigned to a position for which he had bid on Extra Gang No. 7 on May 3, 1960.

On April 29, 1960, a regular assigned trackman on Extra Gang No. 1 was injured and was unable to work. This vacancy was not bulletined at the expiration of 20 days. The Local Chairman claims he addressed a letter thereon to the Carrier on June 12, 1960, which the Carrier claims was not received. He also claims to have talked to the Division Engineer during the latter part of June. In any event, the vacancy was bulletined on July 15, 1960, after receipt of a letter from the General Chairman thereon. This temporary vacancy was assigned under that bulletin to Trackman L. F. Talbot who is senior to the claimant.

A short time prior to the advertisement of that vacancy, the claimant had bid on and been assigned to a permanent vacancy in Extra Gang No. 1.

There is no question that the Carrier violated the provisions of Rule 11(a) in its failure to bulletin the vacancy after the expiration of 20 days, however the claim here for expenses is too remote to be sustainable. It would have to be based upon conjecture that the claimant would have bid for this temporary vacancy and have been assigned to it, whereas, in fact, when it was bulletined, he did not bid and it was assigned to a senior trackman. Under the circumstances shown here, this claim cannot be sustained.

AWARD: Claim denied.

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(s) Dudley E. Whiting

Dudley E. Whiting, Chairman

(s) A. J. Cunningham

A. J. Cunningham, Employee Member

(s) G. W. Johnson

G. W. Johnson, Carrier Member

St. Louis, Missouri
October 30, 1962
File 247-887-31