

SPECIAL BOARD OF ADJUSTMENT NO. 279BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
versus
MISSOURI PACIFIC RAILROAD COMPANYSTATEMENTOF CLAIM: Claim of the System Committee of the Brotherhood that:

- (1) The Carrier violated the effective Agreement by refusing to allow Relief Section Foreman T. S. Forgy to displace a junior employee as Foreman of Extra Gang No. 1, Northern Kansas Division, on April 28, 1958.
- (2) Relief Section Foreman T. S. Forgy be now compensated a day's pay as Extra Gang Foreman on each day he was not allowed to work as such between April 28 and May 25, 1958.
- (3) Relief Section Foreman T. S. Forgy be now compensated for the difference in pay received as Relief Foreman and what he should have received as Extra Gang Foreman on each day subsequent to May 25, 1958 and continuing account of this violation of Agreement referred to in Part (1) of this claim.

FINDINGS: Claimant bid for and was assigned to position of relief foreman on January 17, 1957. He was then working as a section foreman and continued to so work until February 15, 1957, when he was displaced by a senior section foreman. He then returned to section 51 as a section laborer until March 1, 1957, when he commenced service as a relief foreman. There was no relief foreman work available for the period April 28 to May 25, 1958. His request to displace a junior section foreman was declined and he refused to return to his job as section laborer on section 51. He resumed service as a relief foreman on May 26.

Rule 11 $\frac{1}{2}$ (a) contemplates that there may be breaks in service of relief foreman and provides "The employe so assigned may work on his regular position when not performing service as foreman." The other displacement rules do not appear applicable because his position was not abolished nor was he displaced from it. Thus it appears that he had no right under the agreement to displace a junior section foreman but had only the right to work on his regular position when not performing service as relief foreman. That meant a return to his regular job as section laborer on section 51.

It should be noted that this situation probably was not contemplated when the rule was written and that subsequent to this occurrence the parties have entered into a memorandum of agreement modifying the provisions of Rule 11 $\frac{1}{2}$, but since that agreement was not then in effect this claim cannot be sustained.

AWARD: Claim denied.SPECIAL BOARD OF ADJUSTMENT NO. 279

(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
July 17, 1959