

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 426

Docket No. 426
File 890254

Parties Brotherhood of Maintenance of Way Employes
to and
Dispute Union Pacific Railroad Company
(Former Missouri Pacific Railroad Company)

Statement

of Claim: (1) Carrier violated the Agreement, especially Rule 2, when Leon H. Robinson was not allowed to displace M. J. Currans within the expiration of his twenty days.

(2) Claim in behalf of Mr. Robinson for eight (8) hours each work day, including overtime and holidays beginning November 29, 1988 and continuing.

Findings: The Board has jurisdiction of this case by reason of the parties Agreement establishing this Board therefor.

The Claimant Track Foreman, Leon H. Robinson, was bumped by a senior employee on November 28, 1988. Robinson attempted to bump a junior employee, Foreman M. J. Currans, who had been furloughed and who was working the temporary vacancy of assigned Foreman T. L. Robinson, who was absent due to sickness, at Engleton, Texas.

The pertinent Agreement provisions read:

"Rule 11 - Bulletin

(a) New positions and vacancies will be advertised promptly and in any case no later than ten (10) days following the establishment of the position or the date the vacancy occurs. Temporary vacancies created by reason of a regular assigned employee's absence due to sickness or injury, or authorized leave of absence when known to be of twenty (20) days or more duration will, if the vacancy is to be filled, be advertised and assigned as 'temporary vacancies.'... Employees assigned to temporary vacancies will be subject to displacement by senior employees who have displacement rights..." (emphasis added)

Rule 2 - Seniority Rights, reads:

"(f) Employees entitled to exercise seniority rights over junior regular assigned employees must designate exercise of such rights within twenty (20) calendar days following their displacement or their return to service... Otherwise,


employees who fail to exercise seniority rights within the twenty (20) calendar days specified herein, shall forfeit their right to displace a regular assigned employee and shall take their place on the furloughed list with preference to work over the junior employees thereon and will be subject to bulletined positions in line with their seniority.

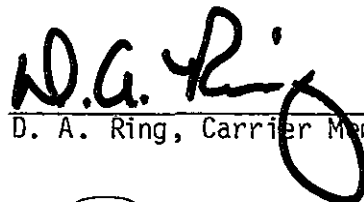
(g) Foreman...who are subject to the provisions of this Agreement after having exhausted their rights in the class in which employes, shall have the right to drop back to the next lower classification in line with their seniority and that classification.


(h) An employee who returns to a lower classification and retains seniority in a higher classification as provided in (g)...may if he so desires waive the right to work extra or temporary vacancies other than assignment by bulletin per Rule 12..."

When the facts are applied to the rules involved it would appear that the claim has no merit. Claimant had no contractual right to displace M. J. Currans who was working the position of T. L. Robinson as an extra while it was being advertised. Leon Robinson, if he were senior, could have displaced the owner of the position, T. L. Robinson, who was off sick. Notwithstanding, there were two "regular" assigned employees that he could have bumped, Manual Canto, Jr. on Gang 2806, or D. R. Rodriduez, on Gang 2888, both of whom were junior to him. This claim will be denied.

Award: Claim denied.


S. A. Hammons, Jr., Employee Member


D. A. Ring, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member