AWARD NO. 59
Docket No. 59

SPECIAL BOARD OF ADJUSTMENT NO. 279

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES
versus
MISSOURI PACIFIC RAILROAD COMPANY

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

(1) The Carrier violated the effective Agreement by failing to assign B&B Foreman S. C. Morris to the position of B&B Foreman on System Steel Gang No. 3, effective January 21, 1959.

(2) B&B Foreman S. C. Morris be now reimbursed for the difference in pay received on work performed by him during the period of this claim and what he should have received as Foreman of System Steel B&B Gang No. 3, beginning January 21, 1959 and continuing until this violation of the Agreement is discontinued.

FINDINGS: On January 5, 1959, the parties entered into an agreement for the establishment of System B&B Steel Gangs to accomplish steel construction and repair work with new procedures and equipment, involving welding and riveting. On January 6, the Carrier issued a bulletin to B&B employes giving notice of the establishment of the first System B&B Steel Gang pursuant to that Agreement. The claimant filed an application for the position of foreman thereon but the Carrier assigned the position to a junior B&B foreman on the basis that the claimant's ability was not sufficient for the position of foreman on this new System Steel Bridge Repair Gang.

Rule 10(a) provides that transfers to fill vacancies or new positions shall be based on ability, merit, seniority, and if ability and merit are sufficient, seniority shall prevail, "the Management to be the judge."

There was some rational basis for the Management's decision because the claimant had never performed any welding, and as set forth in the Bridge Engineer's letter of March 2, the bids for the foreman on this new gang were reviewed carefully because it involved a new type of work and procedure unfamiliar to most B&B men. This letter also set forth the various considerations taken into account by the Carrier in formulating its judgment that the claimant did not possess sufficient ability.

What this claim actually amounts to is a request by the Employes that we substitute their judgment for that of Management as to the sufficiency of the claimant's ability to fill this new position. Under Rule 10(a), this is not possible so the 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 - Employe Member

(s) G. W. Johnson
G. W. Johnson - Carrier Member

St. Louis, Missouri
September 6, 1962
File BMWE 3-59