

SPECIAL BOARD OF ADJUSTMENT NO. 488

PARTIES: BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
and
THE BALTIMORE AND OHIO RAILROAD COMPANY

AWARD IN DOCKET No. 22

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

(1) The Carrier violated the effective agreement by allowing Foreman L. D. Summers to displace Foreman G. A. Long, on the position of Foreman of Extra Gang No. 33221, on or about August 26, 1960.

(2) All employees affected by this improper displacement be returned to their rightful positions, and that Foreman Summers be given an opportunity now to displace in accordance with Rule 12(f)."

FINDINGS: It is Organization's contention that Carrier's action initially was a "promotion" under Rule 12(f) when it promoted Track Foreman L. D. Summers to the excepted position of Track Supervisor. This promotion of Summers came about because of the illness of Track Supervisor G. L. Harbaugh. Acting Supervisor B. H. Simmons took Harbaugh's place, and Summers took Simmons' place.

Carrier's circular on Summers' move into the supervisor's job noted that he had been promoted to "acting" Track Supervisor.

Harbaugh was off due to illness from March 1 to August 23, when he received permission from Carrier's medical examiner to resume work.

Organization treats Summers' promotion as permanent, while Carrier argues it was temporary.

Organization argues Summers' assignment was a promotion within this language of Rule 12(f).

"Employees now or hereafter promoted to supervisory positions with the Railroad Company beyond the scope of this agreement will be considered as on a leave of absence for the first sixty (60) days. Thereafter their former positions will be advertised as permanent vacancies....."

When a man reports off duty due to illness it is only logical to treat his absence as temporary. Carrier's designation of Summers' assignment as "acting" did not indicate any permanence. It was a temporary absence.

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In consequence, we believe Carrier's adherence to Rule 46(b-2) when Harbaugh returned to work was proper under the circumstances here present.

AWARD

Claim denied.

(s) Edward A. Lynch
Edward A. Lynch,
Chairman

(s) A. J. Cunningham
A. J. Cunningham, Employee Member

(s) T. S. Woods
T. S. Woods, Carrier Member

Dated at Baltimore, Maryland,
this 7th day of May, 1963.