

BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 924

Award No. 132

Docket No. 137

PARTIES: BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

TO :

DISPUTE: CHICAGO & NORTH WESTERN TRANSPORTATION CO.

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

1. The Carrier violated the Agreement when it called and used a junior employe to perform extra work commencing April 3, 1987, instead of calling and using Trackman M. Whitaker who was the senior furloughed employe. (Organization File 9KB-4288T; Carrier File 81-87-85).
2. Claimant M. Whitaker shall be compensated for all hours worked by the junior employe commencing April 3, 1987, and until he is recalled to service.

FINDINGS:

The Claimant, with seniority dating from September 5, 1979, in Zone A of Seniority District T-9 was in a furlough status when extra work became available at Proviso, Illinois. The Organization contends that the Carrier failed to call the Claimant for extra work and instead called and used three junior employes. The claim was denied and has resulted in the dispute being placed before this Board.

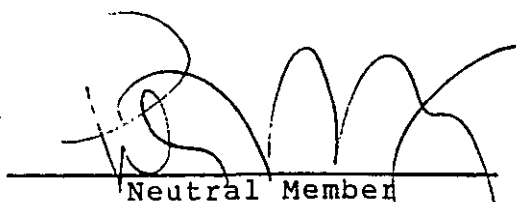
This Board has reviewed the record in this case and we find that the Carrier made two telephone calls to the Claimant on two consecutive days in an effort to offer him the work in question. However, on neither occasion was the Claimant at home. There was no answer to telephone calls on March 18 or March 19, and the caller noted in the record that the Claimant was on vacation. Moreover, the record reveals that the Claimant had indicated to a Supervisor that he had intended to travel by rail during his vacation.

There is no question that the Carrier bears the burden of trying to call in the most senior employees to return from furlough before


calling in junior employees. However, this Carrier has met its burden by attempting on two separate occasions to reach the Claimant. This Board finds that the Carrier made a good faith effort in attempting to contact the more senior furloughed employee and he was unavailable. The Carrier then has a right to find less senior employees to perform the necessary work.

AWARD

Claim denied.



Neutral Member

Carrier Member

Organization Member

Date: NOV 28 1989