

ORG. FILE 8-21-22-3
CARRIER FILE D-3253
NRAB FILE CL-10179

AWARD NO. 28
CASE NO. 28

SPECIAL BOARD OF ADJUSTMENT NO. 194

PARTIES The Brotherhood of Railway and Steamship Clerks,
Freight Handlers, Express and Station Employees
TO

DISPUTE St. Louis-San Francisco Railway Company

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

CLAIM I

(1) The Carrier violated the terms of the currently effective Agreement between the parties when on November 15, 1956, it refused to permit George Largente to fill a short Group 3 vacancy in line with his seniority; and when on November 19, 1956, it refused to permit Clarence Jackson to fill a short Group 3 vacancy in line with his Group 3 seniority.

(2) George Largente shall now be paid the difference between the rate of a Janitor, \$14.96 per day, and the rate of a Stowman, \$1.93 per hour, or \$15.44 per day, for November 15, and all succeeding dates on which he was not used in line with his seniority.

(3) Clarence Jackson now be paid the difference between the rate of the ticket filer, \$13.64 per day, and the rate of a stowman, \$1.93 per hour, or \$15.44 per day, for November 19, and all succeeding dates on which he was not permitted to fill short temporary vacancies on Stowman position in line with his Group 3 seniority.

CLAIM II

(1) The Carrier violated the terms of the currently effective Agreement when it refused to call W. E. Barnett to fill short temporary vacancies in Group 2 on January 23, 1957, in line with his service seniority and terms of the currently effective Agreement, and when it failed to call Fred Jaudes to fill temporary short vacancies in Group 2 in line with his service seniority and terms of the currently effective agreement.

(2) W. E. Barnett now be allowed one day's pay at the Janitor rate, \$14.96 per day, for January 23, 1957, account this violation.

(3) Fred Jaudes now be allowed one day's pay at the Janitor rate, \$14.96 per day, for each date, February 12 through 16, 1957, inclusive.

FINDINGS: Special Board of Adjustment No. 194, upon the whole record and all the evidence, finds and holds:

The Carrier and Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act as amended.

This Special Board of Adjustment has jurisdiction over this dispute.

These two sets of claims involve the seniority rights of Group 3 employees who were reduced from Group 3 and had exhausted all of their rights in Group 3. The work under claim is extra work.

In Claim I the Claimants, who were reduced Group 3 employees, had sufficient Group 3 seniority to displace in Group 2 and did so pursuant to Rule 3(e) 2 which provides:

"Employees acquiring seniority date in Group 1 shall be permitted to use their Group 1 seniority on Roster C, Group 2 and Group 3 positions in the same seniority district. Roster C, Group 2 and Group 3 employees shall be permitted to exercise their seniority on either roster in the other. In any case of exercise of seniority not acquired by actual performance of work on position covered by roster, such seniority shall not be exercised until employee has exhausted seniority rights on regular assigned positions in the group in which employed."

After they had exercised their seniority in Group 2, they retained and continued to accumulate seniority in Group 3 pursuant to Rule 3(e) 1 which provides:

"Employees promoted from one seniority group . . . to another in the same seniority district shall retain and continue to accumulate seniority on the roster from which promoted . . ."

When short vacancies occurred in Group 3 positions, the Carrier held that, while holding regular Group 2 positions, Claimants could not exercise their Group 3 seniority on Group 3 short vacancies and accordingly used Group 3 extra employees who were junior to Claimants in Group 3.

In Claim II the reduced Group 3 employees did not have sufficient seniority to displace in Group 2 and so became extra employees in both groups. When short vacancies occurred in Group 2 positions, the Carrier held that Claimants could not exercise their Group 3 seniority on Group 2 short vacancies and accordingly used Group 2 extra employees who were junior to Claimants in Group 3 but senior to Claimants in Group 2.

First, Rule 3 (e) 2 above quoted provides generally for the "exercise of seniority" by Group 2 and Group 3 employees on either roster in the other. And Rule 21 (c) provides generally that employees "on the extra list," when available, shall be given preference on seniority basis to all extra or temporary work and short vacancies.

But Rule 22 ("Status of Employees on Short Vacancies and Temporary Positions") specifically provides:

"Under this Rule Group 3 employees may be used in the filling of Group 2 short vacancy or Group 2 and Group 3 employees may be used in the filling of Group 1 short vacancies only when they have established seniority in the higher groups and are senior to extra list employees in the higher groups."

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On familiar principles, a specific rule such as Rule 22 controls a general rule such as Rule 3(e) 2 or Rule 21 (c).

Second. In this view Rule 22 is fatal to the claims. Regardless of how Claimants may exercise their Group 3 seniority otherwise, Rule 22 represents a definitive establishment of the right to extra work which authorizes employes to move up to fill short vacancies in higher groups, but not to move back, and to move up solely on the basis of their established seniority in the group in which the short vacancy occurs.

A W A R D

Claims I and II denied.

/s/ Hubert Wyckoff
Chairman

/s/ T. P. Deaton
Carrier Member

/s/ F. H. Wright
Employee Member

Dated at St. Louis, Missouri June 22, 1959.