

SPECIAL BOARD OF ADJUSTMENT NO. 279

Award No. 431

Docket No. 431
File 890161

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

Statement

of Claim: (1) Grievance filed in behalf of R. E. Buckholz protesting the handling of bulletining of Work Equipment Mechanic positions at Houston and Spring, Texas in the Spring of 1988.

(2) Work Equipment Mechanics should be returned to their former headquarters, i.e. Mr. T. Buckholz to Houston and Mr. Norcross to Spring.

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

This dispute arises of the Carrier a new "position" of Work Equipment Mechanic in the Houston, Texas. General Chairman on July 13, 1988 wrote Carrier a grievance as follows:

"This is to protest the handling of the bulletining of the work equipment mechanic position at Houston and Spring, Texas this spring. On February 25, 1988, under Bulletin WEM-008-88, one work equipment mechanic was bulletined because of 'change in headquarters,' and then was cancelled on March 11, because it was issued in error. This was headquartered at Houston, Texas. Mr. R. E. Buckholz had been holding this position at Houston.

Carrier had F. A. Norcross filling the above so called vacancy. Mr. Buckholz had to go to the work equipment position at Spring, Texas. Then the job was put back on at Houston, and on April 8, 1988, Mr. Norcross was assigned to Houston.

All this was done because the supervisors wanted Mr. Norcross on the job at Houston, which was being filled by junior employee R. E. Buckholz. These work equipment mechanics should be returned to their former headquarters; i.e., Mr. Buckholz to Houston and Mr. Norcross to Spring. Please advise when this will be done."

Carrier raises time limits as one procedural defense and the second is that no rule violation was cited. The General Chairman's letter of July 13, 1988 was, in any event, or manner of calculation, well beyond the 60 days time limit limitation. However, the record would seem to indicate that the Carrier raised the bar of time limits only when it was appealed to the Board. Thus the bar is considered untimely raised.

Claimant was assigned on March 3, 1987 by Bulletin #WEM-105-87 to Gang 4257 later changed to Gang 3109. The headquarters had been at Lloyd Yard. Supervisor J. P. Dillard stated, in reference to the protest of handling the work equipment machine position at Houston, Texas of Gang 3109 to which R. E. Buckholz was assigned:

"Mr. Buckholz was reporting to work at Lloyd Yard because that was where he had been reporting since he had been on this job, this is 20 miles from Houston, I told Mr. Buckholz to report to 6800 Kirkpatrick he told me that his reporting place had always been Lloyd Yard and he could not afford to drive to Houston every day so I bulletined the job as a change in headquarters.

Without talking to ME General Chairman Larry Borden called GMS and had the job cancelled on March 11, 1988.

On March 25, 1988 I bulletined a mechanic's job at Cody Yard which is still a Houston address but is 30 miles from 6800 Kirkpatrick address and some 50 from Lloyd Yard.

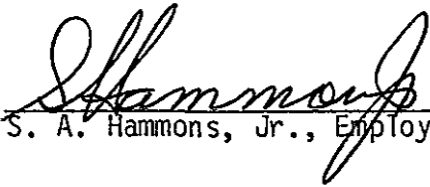
Mr. Buckholz was given the first opportunity to work this extra work but said he wanted his cut off letter so Gang 3109 was cut off and Gang 3112 was assigned.

The reporting headquarters were moved 50 miles also work territory was changed from Old Gulf Division to Houston Service Unit. We have the right to abolish job or add jobs as needed. Mr. Borden should not have cancelled Bulletin in March as this should have been done by Union Pacific offices. In reference to the supervisor wanting Norcross on this job, Norcross and Buckholz was working for me."

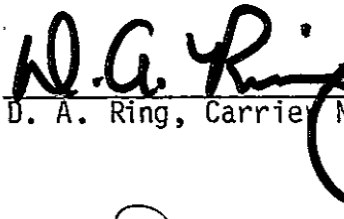
The Board finds that no rule was cited as being violated. Hence, there can be no cause of action on our part. Notwithstanding the parties agreed that in order to move a headquarters that no rebulletining is obligated but there is a requirement to give a cut off letter to the holder of the former assignment being bulletined. It appears that the Claimant did not want to take the new job. He took his cut off letter instead. The fact that Buckholz did not bid for the new job would indicate that he was not

interested. That the bulletin was cancelled does not serve to change the conclusion that the Claimant did not want the job in the first place. It does appear that the senior man has the job irrespective of the allegations as to the motivation therefor. In the circumstances, a denial of this claim will serve as well as a dismissal.

Award: Claim denied.



S. A. Hammons, Jr., Employee Member



D. A. Ring, Carrier Member


Arthur T. Van Wart, Chairman
and Neutral Member

Issued November 26, 1990.