PROCEEDINGS BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 280

PARTIES TO DISPUTE:

Brotherhood of Maintenance of Way Employes )
) Case No. 59
and ) Award No. 59
)
St. Louis Southwestern Railway Company )

STATEMENT OF CLAIM:

1. The Carrier violated the effective Agreement on Monday, August 22, 1960, by failing to issue authority to section laborer L. T. Hamilton to make a displacement in Section No. 3 at Texarkana.

2. That section laborer L. T. Hamilton shall now be compensated for an equal amount of time as was worked by his junior section laborer A. C. White from August 22, 1960 and continuing as long as this violation existed.

FINDINGS:

Upon the whole record and all the evidence, after hearing, the Board finds that the parties herein are carrier and employee within the meaning of the Railway Labor Act, as amended, and that this Board is duly constituted by agreement and has jurisdiction of the parties and of the subject matter.

The organization states that the grievant was cut off his regular assignment as a section laborer and appeared in the carrier's office of Chief Engineer J. M. Lowry, Monday, August 22, 1960. He requested information and permission to displace his junior. This is in accordance with Agreement requirements. At this time a junior section laborer, A. C. White, was then working on Section 3, Texarkana. White had been previously working before August 22 and did continue from August 22, thereafter.

The carrier admits that the grievant appeared at the offices of the Chief Engineer Lowry on Monday, August 22, 1960 but states that he was informed that due to the fact that he resided in Texarkana to ask the section foreman if his junior, White, was then working in the crew and, if so, he could then make a displacement. The organization contends that the grievant was not given any such instructions. He was simply notified that there were no juniors working whom he could displace. He returned to his home at Texarkana and visited the General Chairman's office where he filed an application to retain his seniority on the approved form.

The organization states that all authority for making displacements in the Carrier's section gangs must come from the Chief Engineer's office. Neither the Foreman nor the Roadmaster have any jurisdiction over displacements.

Under date of January 1, 1959, after Rule 2-4 was revised, the Carrier abolished all positions of Division Engineer. Following the elimination of the position of Division Engineer, Carrier, by instructions, notified all concerned that all matters previously handled with the Division Engineer would now be transferred to, and handled by, the Chief Engineer, J. M. Lowry.

When the Claimant learned that his junior, White, had been working on Section No. 3 at the time that he had asked permission to displace his junior, he contacted his General Chairman and registered a complaint. The General Chairman filed a claim on September 1, 1960.

From the evidence of record, the Board finds that the foreman of Section No. 3 should have informed Chief Engineer Lowry that a vacancy existed in his gang. The claimant would then have been informed of the vacancy by Lowry and would have started to work on August 23, 1960 through September 2, 1960.

AWARD: Claim sustained from August 23, 1960 through September 2, 1960.

/s/ Thomas C. Begley
Thomas C. Begley, Chairman

/s/ A. J. Cunningham
A. J. Cunningham, Employee Member

/s/ M. L. Erwin
M. L. Erwin, Carrier Member

Dated at Tyler, Texas
April 25, 1966