

PROCEEDINGS BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 280

PARTIES TO DISPUTE:

Brotherhood of Maintenance of Way Employees)

and)

St. Louis Southwestern Railway Company)

Case No. 66

Award No. 66

STATEMENT OF CLAIM:

1. Carrier violated the effective Agreement by failing to call senior Extra Gang Laborer O. T. Johnson for service on Gang No. 33, Rector, Arkansas, beginning April 3, 1961.
2. Extra Gang Laborer O. T. Johnson be now paid for a total number of hours corresponding to those worked by the junior employee Lawrence Ellenberg.

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.

From the evidence of record, junior employee Lawrence Ellenberg was told prior to April 10, 1961 to report to Extra Gang No. 33 on April 10, 1961 and worked on April 10, 11, 12, and 13, 1961. The claimant replaced Ellenberg on April 14, 1961 because he was senior to Ellenberg. The claimant was notified on April 12, 1961 to report to Gang No. 33. He did not report to work until April 14, 1961.

The claimant contends that he should have been called to work with Extra Gang No. 33 at Rector, Arkansas to start work on April 10, 1961, in line with his seniority instead of Junior Ellenberg. Both Ellenberg and the claimant were available to work with Gang No. 33.

The Board finds that the Carrier violated Rule 3-3 in not calling the claimant to work April 10, 1961, and he should be paid for April 10, 11, and 12, 1961. He should not be paid for April 13, 1961 because he did not report for work on April 13, 1961 of his own choice.

AWARD: Claim sustained for April 10, 11 and 12, 1961.

/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