

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. 72
Award No. 72

STATEMENT OF CLAIM:

1. The Carrier violated the effective Agreement by recalling furloughed Section Laborer Alex Richmond, to work on Section 2, Pine Bluff, Arkansas, on May 25, 1961, in lieu of calling back a furloughed employee holding rights to recall on this section.
2. The senior available Section Laborer holding re-call rights to Section 2, be now re-imburSED at his respective rate of pay for the number of hours as was worked by Track Laborer Alex Richmond on the date in question.

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.

On May 25, 1961, furloughed Section Laborer Alex Richmond was re-called to service to Section No. 2 to fill a permanent vacancy resulting from the retirement of Laborer Ed Simpson.

The Organization states that Richmond held no seniority rights on Section No. 2 under the original gang rights Rule 2-4 and the claimant should have been called for service on his original gang even though he had less seniority in the seniority district. The Carrier states that Richmond was senior to the claimant in the seniority district and was properly used under Rule 3-3.

There is no dispute that laborers have original gang or so-called "home" rights. The right to return to his original gang applies when a laborer is reduced from his original gang and has exercised displacement on or has been re-called to service on another gang. While so working on the other gang he may return to his original gang when the force is increased or a vacancy occurs on such gang in preference to a junior employee by making application to the Division Engineer. But, this right to return to his original gang does not apply if he is furloughed since it does not give him preference on his original

gang over any employee his senior in the seniority district, but only over junior employees. In other words, it is an exception to the provisions of the rule which prevents him moving from one gang to another except when reduced or displaced.

From the evidence of record the Board finds that Richmond was properly called for service and that Rule 2-4 has no application in the claim.

AWARD: Claim denied.

/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