



SPECIAL BOARD OF ADJUSTMENT NO. 525

AWARD NO. 22

CASE NO. 22

GRAND DIV.: ORT 3621

ORGANIZATION'S FILE

R-1268

CARRIER'S FILE

TE-9-61

EMPLOYEES' STATEMENT OF CLAIM:

1. Carrier violated the terms of the parties' Agreement when it refused to compensate Telegrapher L. C. Brownell for eight (8) hours deadhead time moving from Thompson, Utah, to Malta, Colorado.

2. Carrier shall, because of the violation set out in Part 1 hereof, compensate Telegrapher L. C. Brownell for eight (8) hours straight time at the rate of second shift position Thompson, Utah.

SPECIFIC FINDINGS:

Claimant's position was abolished and he was directed "to exercise seniority where permitted." Pursuant to Rule 18, Reduction in Force and Displacement Rights, he displaced a telegrapher at Malta, Colorado, 257 miles distant.

Relying on Rule 11 (A)-Transfers and Deadhead, Claimant filed a time claim. That rule reads:

"Employees transferred by order of the Company, or to accept bulletined positions will be given free transportation for themselves, dependent members of their families, household and personal effects not exceeding one carload, and will be allowed rate of pay governing positions they are leaving while en route and making such transfers."

The time slip was declined by Carrier upon the grounds that Claimant was displacing telegrapher at Malta in exercise of his seniority and he was neither accepting a bulletined position, nor was he transferred at the direction of the Company.

A careful reading of Award 242 cited by the Union illustrates the type of rule needed by the Organization to achieve the result desired. Rule 11 (a) in that instance provides pay for time lost in transferring in exercise of seniority. The Agreement before us contains no comparable provision. The rule before us provides for payment under two circumstances unrelated to the exercise of seniority, namely, when transferred by order of the Company, or, to accept bulletined positions. Under these two latter situations, the move is solely for the convenience of the Carrier. In the case before us, it makes no difference to the Company whether the occupancy of the job at Malta was changed or not. The change effected by his exercise of seniority benefited the Claimant alone.

It would be tortured reasoning to hold that the language appended to the job abolishment bulletin was an order of the Company. An order assumes an obligation to abide with it. Claimant was under no compulsion to exercise seniority and take a position at Malta or Podunk Center. He could have chosen to revert to the extra list. We do not agree with cited Award 5474 in this regard.

AWARD

Claim denied.

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Denver, Colorado
March 9, 1964

(Signed) J. Glenn Donaldson
J. Glenn Donaldson, Neutral Member
Chairman

(Signed) R. K. Anthia
R. K. Anthia, Organization Member

(Signed) C. E. Baldrige
C. E. Baldrige, Carrier Member