

PUBLIC LAW BOARD NO. 3107

AWARD NO. 4

CASE NO. 4

ORG. FILE: CH-11-81-RW

CAR. FILE: 013-275-15

PARTIES TO DISPUTE:

Terminal Railroad Association of St. Louis

and

Railroad Yardmasters of America

STATEMENT OF CLAIM

"Claim on behalf of Extra Yardmaster C. Heisinger for a minimum pro rata day's pay for the date of June 26, 1981, account the Yardmasters' Extra Board was not marked in the proper sequence on that date."

OPINION OF BOARD

The issue here is the application of the seniority provisions of the Agreement between the parties as it applies to the filling of vacancies on a revolving or rotating basis. The claimant was called out third when he alleges he should have been called out first.

The employee who was called out first had missed a call on the previous day, which claimant alleges should have caused him to have been placed at the bottom of the rotation list.

The person who was called out second had been called the previous day in place of the employee who had missed a call and had, in fact, worked on the previous day which, in the opinion of the claimant, should have caused the second employee called out to have been placed at the bottom of the rotation list also, which would have made the claimant first in line to be called.

The position of the Carrier has been reflected by general denials of liability and the assertion that the claimant did indeed work on the date involved and, therefore, has no claim.

The only Awards cited indicate that a rotation system should be followed precisely and that an employee who is not called in the proper order may be compensated for that time even if he did, in fact, work on the same day (See First Division Awards No. 271, 4612, 4917, 5058, 8952, and 8830). We will support this proposition.

The remaining question, then, is whether the claimant should have been called first rather than third.

With respect to the first employee called, this matter was considered in Case No. 5 before this Board with respect to the circumstances under which the employee was called and the obligation of the Carrier with respect to this employee. The employee did not work on the previous day, and it is the Organization's theory that, by virtue of having missed this call, that the employee should have been placed at the bottom of the rotation list. The Carrier has not denied this interpretation of the rules, and we will accept for the purpose of this Award that the person who was called first should have been placed at the bottom of the rotation list.

The person who was called second actually worked on the previous day, and it is the position of the Organization that this would place said employee at the bottom of the rotation list. The Carrier has not denied this allegation and, for the purpose of this Award, we will accept that interpretation.

Under these circumstances, the claimant should have been called first. He was not called first and, therefore, he is entitled to payment for the employment for which he should have been called.

FINDINGS

The Board, upon consideration of the entire record and all of the evidence finds:

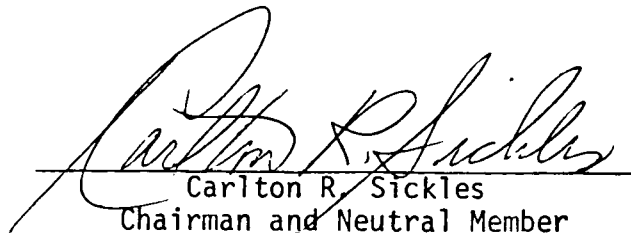
The parties herein are Carrier and employee within the meaning of the Railway Labor Act, as amended.

This Board has jurisdiction over the dispute involved herein.

The parties to said dispute were given due and proper notice of hearing thereon.

AWARD

1. Claim sustained.
2. Carrier shall comply with this Award within thirty (30) days of the effective date hereof.


Carlton R. Sickles
Chairman and Neutral Member

O.R. Bailey, Jr.
O. R. Bailey
Carrier Member

John K. Brown
John K. Brown
Organization Member

JUL 21 1983

DATE