

NATIONAL RAILROAD ADJUSTMENT BOARD  
FIRST DIVISIONAward No. 24884  
Docket No. 44504  
98-1-96-1-T-1260

The First Division consisted of the regular members and in addition Referee Dana E. Eischen when award was rendered.

(Brotherhood of Locomotive Engineers  
PARTIES TO DISPUTE: (  
(Tacoma Municipal Belt Line Railway

STATEMENT OF CLAIM:

"Claim of Engineer M. P. Hastings for a basic day, in addition to all other earnings account Carrier did not allow M.P. Hastings to exercise his seniority to the job of his preference (on 12-10-94). This action by the Carrier violates Articles 8(b) and 9(d) of current agreement."

FINDINGS:

The First Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute were given due notice of hearing thereon.

This claim involves a small terminal property where assignments are selected on a daily basis by Engineers via an instrument known as the "daily mark up." In this atypical setting, regular Engineers must exercise their seniority to the job of their preference each day by 3:00 P.M. Engineers may claim a night shift assignment on the

available at the straight-time rate of pay, Engineer Hastings was assigned, when the Board was marked up at 4:00 p.m., the vacant engineer's position on the 7:00 a.m. switch assignment.

The fundamental rights of a Carrier to efficiently and economically operate its properties unless otherwise constrained by agreement between the parties is established by numerous awards of the National Railroad Adjustment Board and various other forums."

Agreement Rule 8(b) states:

"A Crew Board shall be kept in the Engineers on-duty place and at 4:00 p.m. each day, assignments shall be marked up for the twenty-four (24) hour-period ending at 4:00 p.m. the following day. Regular engineers are to exercise their seniority by 3:00 p.m. . . ."

Rule 9(d) states, in pertinent part:

"The right of preference of work shall be governed by seniority. . . ."

The applicable Agreement language in this case is clear on its face, and therefore, must be literally construed. Given its plain meaning, it becomes evident that Carrier did, on December 10, restrict Claimant from filling his assignment of preference. Even if, arguendo, Carrier was correct in its assertion that Claimant's exercise of seniority would have been "uneconomical or otherwise inconvenient", economy and inconvenience are simply not sufficient grounds to set aside collective bargaining agreement provisions. Therefore, in light of this violation, this claim must be sustained for one basic days' pay.

### AWARD

Claim sustained in accordance with the Findings.