

**NATIONAL RAILROAD ADJUSTMENT BOARD  
FIRST DIVISION**

Award No. 24939

Docket No. 44596

98-1-96 1 T 1264

The First Division consisted of the regular members and in addition Referee John B. LaRocco 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 eight hours pay ( Basic Day ) in addition to all other earnings account carrier did not allow claimant to exercise his seniority to the job of his preference. Carrier in violation of agreement article 8 part B, article 9 part D on 11-04-95.”

**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.

At the daily mark up time (to fill the following day's assignments) for regular Engineers on November 3, 1995, Claimant, who was number four on the seniority roster, expressed his preference to work the 2:30 P.M. assignment on November 4, 1995. Instead, the Carrier force assigned Claimant to work the 7:00 A.M. job. The Carrier permitted Engineer Click, who was junior to Claimant, to work the 2:30 P.M. assignment. The Carrier explained that if Claimant had been permitted to exercise his seniority to the 2:30 P.M. job, there would not have been any available rested straight-time Engineers to

work the 7:00 A.M. assignment inasmuch as Engineer Click would not have completed his mandatory rest in time to work the 7:00 A.M. assignment. By placing Claimant on the 7:00 A.M. assignment, Engineer Click was able to work the 2:30 P.M. assignment (he was rested by then). Otherwise, Engineer Click would not have held a job for November 4.

The Organization charges that the Carrier violated Articles 8(B) and 9(D) by not permitting Claimant to work the assignment of his choice on November 4. The first sentence of Article 9(D) provides: "The right of preference of work shall be governed by seniority."

This Board finds that the facts and issue underlying this claim are identical to the facts and issue underlying the claim in First Division Award 24883 involving these same parties. In that decision, this Board held that the Carrier must adhere to the plain and unambiguous language in the Agreement even if it may cause the Carrier some inefficiencies or to absorb additional costs. Therefore, the Carrier was obligated to permit Claimant to sign up for the assignment he preferred in accord with strict seniority order. For the reasons more fully set forth in Award 24883, we sustain this claim for a basic day at the straight time rate of pay. [See, also, NRAB First Division Award 24884.]

### AWARD

Claim sustained.

### ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of First Division

Dated at Chicago, Illinois, this 14th day of July 1998.