

The Second Division consisted of the regular members and in addition Referee Edward L. Suntrup when award was rendered.

Parties to Dispute: { International Brotherhood of Electrical Workers
{ National Railroad Passenger Corporation

Dispute: Claim of Employees:

1. That the action of the National Railroad Passenger Corporation (Amtrak) was arbitrarily capricious and discriminatory when the National Railroad Passenger Corporation (Amtrak) disqualified Electrician Joseph Episcopo as a train rider without a justifiable reason on October 29, 1979.
2. That accordingly, the National Railroad Passenger Corporation (Amtrak) be ordered to restore Electrician Joseph Episcopo to his former position as a train rider with seniority unimpaired.

Findings:

The Second 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 waived right of appearance at hearing thereon.

Claimant, Mr. Joseph Episcopo, entered service of the Carrier on February 24, 1976 as an electrician (after working as an electrician for the former Penn Central Transportation Company since September 28, 1973) and on July 25, 1977 was assigned to the position of Field Technician - Train Rider. On October 29, 1979 Claimant was removed from the Field Technician - Train Rider position and was informed of his option to exercise his seniority.

A review of the information provided to the National Railroad Adjustment Board in this case leads it to a number of conclusions. First of all, lack of anything more than alluding to the reasons for Claimant's disqualification as Train Rider by Carrier, by either the Organization or the Carrier in their submissions, itself nullifies any role which this Board can assume on Organization's claim. Without the presentation of evidence, no appellate function of this Board can be fulfilled. Secondly, beyond the claim itself it is the position of the Organization that Claimant was not afforded protection under Rule 23 (Discipline-Investigation-Appeal) of the controlling Agreement. While the Board is sensitive to the argument of the Organization that the distinction between "disqualification" and "discipline" is a reasonable one it notes, notwithstanding, that the Carrier and the Organization did freely agree, effective July 16, 1975, to a special rule for Field/Electrical

Technicians - Train Riders which is incorporated into the controlling Agreement as Appendix "H" and that electricians selected by management for such positions are only covered by the following general rules of the current Agreement: 18, 19, 20, 28, 36, 38, 39 and 40. Rule 23 does not apply to Train Riders in the instant case because Appendix "H" does not specify that it should. As a general principle special rules found in collective bargaining agreements which regulate special (and often unique) occupational positions takes precedence over more general rules governing all employees covered by the Agreement: special rules, by definition, represent an agreed upon procedure by labor and management at the bargaining table to cover special conditions. If by means of usage and/or for any other reason the parties to the Agreement conclude that any arrangement as this relates to contractual special rules are non-operable and/or are to the extreme disadvantage of one or the other party, changes may be made in a subsequent round of negotiations.

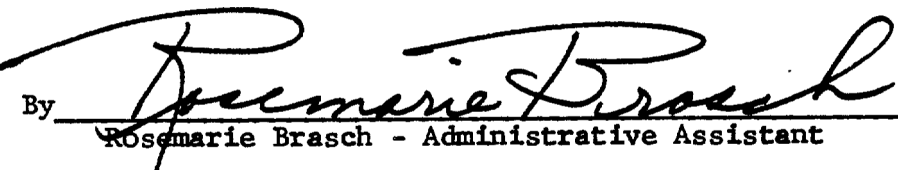
A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Acting Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 2nd day of March, 1983.