

The Second Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

PARTIES TO DISPUTE: (International Brotherhood of Firemen & Oilers
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(Bessemer and Lake Erie Railroad Company

STATEMENT OF CLAIM:

1. The Bessemer and Lake Erie Railroad unreasonably, arbitrarily, capriciously, and without just cause disqualified Firemen and Oiler James M. Templeton from service.

2. That accordingly the Bessemer and Lake Erie Railway Company be required to reimburse and make whole Mr. Templeton for all lost wages and other benefits because of the unjust unsupported disqualification.

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 employees 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.

The Carrier argues that this dispute is "too vague and indefinite" and should be dismissed. While there is some complexity in the circumstances as presented by the Organization, the Board concludes that the facts as set forth are sufficient to resolve the matter.

In 1983, Public Law Board 4067, Award 1 upheld the Carrier's action in finding the Claimant disqualified from filling a one-day vacancy as Laborer in the Car Shop. That Award also noted that the Claimant had previously withdrawn (disqualified himself) from a Hostler Laborer position.

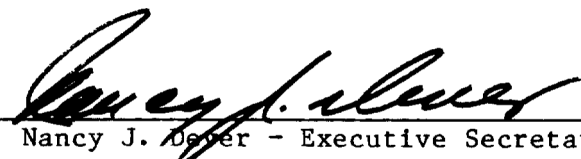
According to the Carrier, the Claimant's position as Engine Wiper was discontinued on May 12, 1989, along with four other positions. The Board finds insufficient support for the Organization's contention that this was not a genuine force reduction. Thereafter, the Claimant attempted to exercise his seniority to displace a junior employee in the position of Locomotive and Car Department Laborer. This was refused by the Carrier on the basis that the Claimant was previously disqualified as a Car Laborer. Considering the duties involved therein, the Board finds this determination in consonance with Public Law Board 4067, Award 1.

In sum, the Board finds no convincing evidence that the Claimant was treated in an improper manner either through the abolition of his position as Engine Wiper or in his being prevented from displacing on a position for which he was previously disqualified.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: 
Nancy J. Osler - Executive Secretary

Dated at Chicago, Illinois, this 18th day of December 1991.