

The Second Division consisted of the regular members and in addition Referee Harold M. Weston when award was rendered.

Parties to Dispute: (International Association of Machinists and
(Aerospace Workers
(Southern Pacific Transportation Company
((Pacific Lines)

Dispute: Claim of Employees:

1. That the Carrier violated Rules 39 and 40 of the current controlling Agreement when it disqualified Machinist Regular Apprentice Ruben L. Vela (hereinafter referred to as Claimant) after completing 129 days, 5 hours and 30 minutes of his indenture period.
2. That the Carrier be ordered to restore Claimant to the position of Machinist Regular Apprentice with compensation for all wage loss and the retroactive restoration of all negotiated benefits (i.e. Health and Welfare, Vacation rights and seniority.

Findings:

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

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employe 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 present claim stems from Carrier's decision not to retain Claimant as an apprentice after he had completed 129 days, 5 hours and 30 minutes of his apprenticeship service period.

Rule 43(f) is the controlling rule of the applicable Agreement. It stipulates that "If within the first service period of 130 days a regular apprentice, or within the first 65 service days a helper apprentice, shows no aptitude to learn the trade, he will not be retained as an apprentice."

Carrier's action was plainly taken within the prescribed 130 days and the fact that five and one-half working hours of the 130th day had elapsed before Claimant was disqualified does not detract from its timeliness.

Since the issue before us concerns Claimant's qualification as a regular apprentice and Rule 43(f) deals specifically with that subject, Rule 43(f) is controlling and Rules 39 and 40, concerning respectively, discipline and a 60 day period to establish competency, are not in point.

It is well settled that Carriers, charged as they are with responsibility for railroad operations, have considerable latitude in determining an employee's fitness and ability and that the Board will not substitute its judgment for that of Carrier in that regard in the absence of a showing that Carrier's evaluation was arbitrary or capricious. See, e.g., Third Division Awards 12669, 13759, 13876 and 16871.

The record shows that Claimant was given a considerable period, at Carrier's expense, to receive training and to qualify and that Carrier's determination was arrived at after considering the reports of appropriate supervisors and was not cavalier.

Accordingly, while this Board is not passing upon the aptitude of Claimant, it finds no basis in this record for disturbing Carrier's decision not to retain Claimant as an apprentice. The claim will be denied.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By Rosemarie Brasch
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 30th day of May, 1975.