

NATIONAL RAILROAD ADJUSTMENT BOARD  
SECOND DIVISION

Award No. 6939  
Docket No. 6708  
2-LI-EW-'75

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

Parties to Dispute: ( System Federation No. 156 Railway Employees'  
( Department A.F.L. - C.I.O. Electrical Workers  
( (I.B.E.W. Local Union No. 589)  
( The Long Island Rail Road Company

Dispute: Claim of Employees:

That Electrician (Power Operator) T. J. Ayres, IBM #17536, be compensated wages and penalties due him from January 19, 1973 to and including February 6, 1973, due to management's violation of the working agreement by not awarding Mr. Ayres, who was the senior bidder, position #77 on Bulletin #29-72 which was posted 9:00 A.M. November 20, 1972 and which closed November 28, 1972. The monies Mr. Ayres is claiming totals one hundred twenty dollars and twelve cents (\$120.12).

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 were given due notice of hearing thereon.

Petitioner contends that Carrier violated the applicable Agreement by refusing to award Claimant the position of Electrician-Truck Driver despite the fact that he was the senior bidder but instead awarded the position to a junior Electrician. Carrier claims that Claimant's record of employment failed to indicate that he had the necessary qualifications for the position in question; therefore he was required to take a qualifying test to establish his ability, but refused to do so. Carrier's position is bottomed on the contention that the Maintenance of Way Agreement, rather than the Maintenance of Equipment Agreement, is applicable to Claimant.

Identical disputes involving the same parties have recently been considered by this Board in Awards 6885, 6886 and 6887. In those Awards we concluded that the Maintenance of Equipment Agreement was controlling and similarly it is applicable to this dispute. For the reasons in the well expressed Award No. 1 of Public Law Board No. 913, involving the same parties, as well as the substantially identical dispute discussed in Award 6885, the Claim must be sustained.

Form 1  
Page 2

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A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest: Executive Secretary  
National Railroad Adjustment Board

By   
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 26th day of September, 1975.