

The Second Division consisted of the regular members and in addition Referee Raymond E. McAlpin when award was rendered.

PARTIES TO DISPUTE: (International Brotherhood of Electrical Workers
(Consolidated Rail Corporation

STATEMENT OF CLAIM:

The I.B.E.W. of Local 784 is submitting a claim in accord with Rule 4-P-1(a) and (i) of the May 1, 1979 Agreement between the Consolidated Rail Corporation and the I.B.E.W. as follows:

1. Two Radio Maintainer positions have been assigned at Columbus, Ohio-Southern region, Consolidated Rail Corporation in violation of the procedural provisions of the Rule 2-A-1 (a) and (b) of the May 1, 1979 Agreement.
2. That the above Radio Maintainer positions were assigned to Radio Maintainers of Seniority District No. 4 in violation of the controlling Agreement.
3. That senior furloughed Radio Maintainers of Seniority District No. 7 and the System Radio Maintainers Roster were denied their rights to bid on the two (2) Radio Maintainer positions at Columbus, Ohio, in violation of the controlling Agreements.

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 employes 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 Organization claimed violation of Rules 2-A-1 (a) and (b) and 4-P-1 when the Carrier assigned radio maintenance positions to two District 4 employees instead of District 7 employees who were furloughed. The Organization stated the Carrier awarded the bulletin jobs without informing the

Claimants. The Claimants hold more seniority than those who were awarded the position. The Claimants were on furloughed status and, therefore, did not know of the bid. There are rules for furloughed employees. The Carrier did not comply with those rules.

The Carrier stated it has a systemwide roster, and both jobs were bulletined in accordance with the rules. The Organization wants the Carrier to furnish bulletins to all furloughed employees which is not required by the rule. It is a principle in arbitration that you cannot get through arbitration what you failed to get through negotiation. In addition, the Carrier noted there is no monetary claim and, therefore, no remedy. The Carrier also contended that the claim was not specific in that it cited 5 radio maintainers and yet only two positions were involved.

The Board finds that Rule 2-A-1 does not require that the Carrier provide copies of the bulletins to those employees who are on furlough. That Rule is reproduced below:

Rule No. 2--Selection of Positions

"2-A-1. (a) When new positions are created or vacancies occur, the senior employees in the seniority district in which the position is advertised shall, if sufficient ability is shown by trial, be given preference in filling such new positions or vacancies that may be desirable to them. Where a position involves air brake work, welding, reflectoscope, high voltage work, magnaflux, radiograph, a nonwritten examination or test may be required as a prerequisite to assignment to the position of an employee who has not previously been qualified on such work by performance or otherwise; an employee bidding for or seeking to displace on such a position shall upon request be promptly given an opportunity to take such examination or test.

(b) New positions and all vacancies will be advertised within fourteen (14) calendar days from the date they occur, for a period of seven (7) calendar days. Advertisements will be bulletined on Wednesday and will designate the position number (if numbered), location, prior seniority district, tour of duty, rest days, rate of pay and major duty to be performed; vacancies will also indicate the name of the last incumbent. (Note: If Wednesday is a holiday the bulletin will be issued the following day.)

An advertisement may be cancelled at any time prior to award being made. In the event an advertisement is cancelled, notice to that effect, and the reason therefor, will be posted on bulletin boards on which the advertisement appeared and the interested local committee will be furnished a copy.

Award will be made and bulletin announcing the name of the successful applicant will be posted within ten (10) calendar days after the close of the advertisement. This rule will not be construed to require the placing of employees on their awarded positions, when properly qualified employees are not available to fill their places, but such transfers must be made within twelve (12) calendar days from effective date of award.

When an employee is awarded a position he will be compensated at the rate of the position he is awarded from the effective date of the award. Copy of the bulletin and award will be furnished the interested local committee."

There is a systemwide roster in existence, and the positions were awarded to the two senior employees who bid on the position; therefore, the Carrier did not violate any existing rule and the claim must be denied.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: 
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 3rd day of August 1988.