

NATIONAL RAILROAD ADJUSTMENT BOARD  
SECOND DIVISION

Award No. 12478  
Docket No. 12029  
92-2-90-2-189

The Second Division consisted of the regular members and in addition Referee John C. Fletcher when award was rendered.

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

STATEMENT OF CLAIM:

Grievance and time claim filed with the Consolidated Rail Corporation on behalf of Radio Maintainer Luther Selby, Jr., Toledo, Ohio, by letter dated March 6, 1989, as set forth therein, particularly:

'This letter is a grievance and time claim on behalf of Mr. Luther Selby, Jr. Radio Television and Electronic Maintainer, as a result of a letter by Mr. J. L. Smith dated 1-13-89 Disqualifying Mr. L. Selby, Jr. on this position.

I request that Mr. Selby be reinstated and made whole in respect to time in grade and pay and allowances due or to become due which would include, one eight hour days pay at the straight time rate, for each working day and each holiday, starting with January 14, 1989 and continuing until Mr. Selby is reinstated.'

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 Claim involved in this Docket seeks compensation for the time that Claimant did not work because he had been disqualified account unable to satisfy the requirements of the job. A number of allegations have been advanced concerning the quickness of the disqualification following Claimant's assignment to the position, his basic qualifications and certification as a Radio Maintainer and the length of time he was out of service following the disqualification. Each of these, however, seem to miss the point. The record is clear that Claimant encouraged Carrier to effect his disqualification. In fact on on his last day of work he left early, commenting to his Supervisor that he knew where the disqualification notice could be sent. Accordingly, the Board is unable to find, in this record that the disqualification was capricious and unjustified.

Even if the Board were able to find that the disqualification were flawed, Claimant, nonetheless, would not be entitled to compensation for the ten months that he was out of service. At the time of his disqualification he could have exercised seniority to another position (there were three junior employees working in the shop at the time) but elected not to do so.

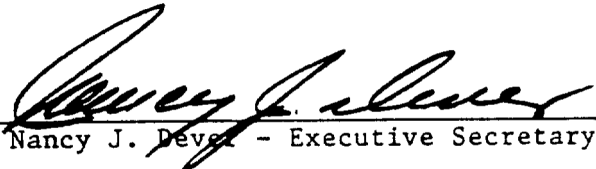
In the circumstances of this case this Board is unable to find that Claimant's disqualification was improper or that he is entitled to compensation for the time he was out of service.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest:

  
Nancy J. Devel - Executive Secretary

Dated at Chicago, Illinois, this 18th day of November 1992.