

The Second Division consisted of the regular members and in addition Referee David P. Twomey when award was rendered.

Parties to Dispute: (System Federation No. 156, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Electrical Workers)
(
(The Long Island Rail Road Company

Dispute: Claim of Employees:

1. That the Long Island Railroad Company violated Article V of the August 21, 1954 Agreement when the Carrier's highest officer, Mr. W. L. Schlager, Jr. failed to decline in writing within the sixty (60) day time limit the claim in behalf of Electrician (Power Operator) I. Weaver for wages and penalties due him from January 19, 1973 to and including February 27, 1973. Claim was submitted to Mr. Schlager on May 22, 1973, acknowledged by Mr. Schlager on June 20, 1973 and denied by Mr. Schlager 63 days later on July 24, 1973.
2. Without waiving the employees' position with respect to the Long Island Railroad Company's violation of Article V, Electrician I. Weaver claims compensation for wages and penalties due him from January 19, 1973 to and including February 27, 1973 due to management's violation of the working agreement by not awarding Mr. Weaver who was the senior bidder, position #75 on Bulletin No. 29-72 which was posted 9:00 A.M. November 20, 1972 and which closed November 28, 1972. The monies Mr. Weaver is claiming totals six hundred twenty-seven dollars and thirty-two cents (\$627.32).
3. That, accordingly, Electrician I. Weaver be awarded position #75 on Bulletin No. 29-72 effective 9:00 A.M. November 29, 1972 and also be compensated \$627.32 for wages and penalties due him.

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 employee 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 contends that the Carrier violated the applicable Agreement of the parties when it refused to Award the Claimant, Electrician I. Weaver, an electrician's position advertised as position #75 on Bulletin No. 29-72, despite the fact that the claimant was the senior bidder. The Carrier instead awarded the position to a junior Electrician. The Carrier contends that the Claimant's record of employment failed to indicate that he possessed the necessary qualifications to occupy the position in question. The Carrier therefore required the Claimant to take a qualifying test to demonstrate his ability, but he refused to do so. The Carrier's contentions are based on the ora that the applicable Agreement is the Maintenance of Way rather than the Maintenance of Equipment Agreement.

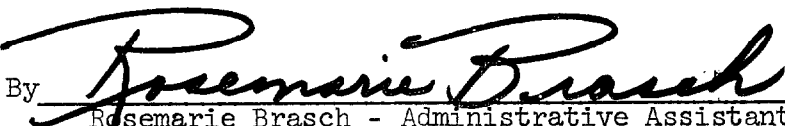
This Board has recently considered identical disputes involving the same parties in Awards 6885, 6886, 6887, 6939, 6942 and 6943. We concluded in those Awards that the Maintenance of Equipment agreement was controlling and we thus find the Maintenance of Equipment agreement to be similarly applicable to this dispute. For the reasons set out in Award No. 1 of Public Law Board No. 913 and expressed in Award 6885, we must sustain the claim.

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 9th day of January, 1976.