

The Second Division consisted of the regular members and in addition Referee Robert A. Franden 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 Electrician Lineman Cable Splicer John A. Caggiano was denied his seniority rights due to management's violation of the working agreement by not awarding Mr. Caggiano, who was the senior qualified bidder, Position No. 7 on Advertisement No. 1 (E.T.) which was posted 4:00 p.m. January 7, 1976 and closed at 8:00 a.m. January 14, 1976.
2. That, accordingly, Mr. Caggiano should be award Position No. 7 effective 8:00 a.m. January 22, 1976.

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.

On January 7, 1976 the Carrier posted advertisements for two positions; Position No. 6 (Lineman or Lineman Cable Splicer, Truck) and Position No. 7 (Lineman or Lineman Cable Splicer). The Claimant bid on the positions indicating that his first preference was Position No. 7.

The Carrier argues that it has been the practice on this property to assign the junior qualified employe to an open position when no qualified senior employe bids on the position. Because Claimant possessed the proper drivers license he was the qualified junior employe and assigned to position 6 (Lineman or Lineman Cable Splicer, Truck). An employe junior to Claimant was awarded position No. 7. Said employe did not possess the necessary drivers license.

The Carrier argues that the actions it took were within its managerial prerogatives and confirmed by the past practice on the property.

We are not persuaded by the Carrier's argument. Rule 16 which sets out the process for bulletening and awarding positions is clear and unambiguous. The senior applicant having the necessary qualifications will be awarded the position. In the instant case with regard to position No. 7 that would be the Claimant. We find no language in the rule qualifying it so as to permit the interpretation the Carrier asks.

That the Agreement was violated.

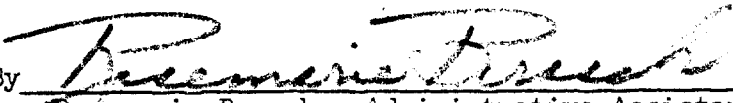
A W A R D

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 25th day of October, 1978.