

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD  
SECOND DIVISION

Award No. 11505  
Docket No. 11355  
88-2-86-2-171

The Second Division consisted of the regular members and in addition Referee Peter R. Meyers when award was rendered.

(The Brotherhood Railway Carmen of the United States and  
( Canada  
PARTIES TO DISPUTE: (  
(Southern Pacific Transportation Company (Western Lines)

STATEMENT OF CLAIM:

1. That the Southern Pacific Transportation Company violated the terms of Rules 19 and 29 of the current working Agreement when they failed to allow Carman M. Resendez, III, to exercise his seniority in obtaining a position held by a junior carman on September 11, 1985 resulting in his furlough at the completion of his shift on September 13, 1985.

2. That accordingly, the Southern Pacific Transportation Company be ordered to compensate Carman M. Resendez, III, in the amount of eight (8) hours pay at straight time rate for each work day that he has been furloughed since September 13, 1985 and a junior carman is allowed to work.

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 employees 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.

Claimant was employed by Carrier at its San Jose, California, yard. On September 8, 1985, Claimant was notified that he was being displaced by a more senior carman and that he would be furloughed as of the end of his shift on September 13, 1985. On September 11, 1985, Claimant sought to displace a junior carman holding a freight carman/Cline truck operator position. Carrier denied Claimant's displacement request, asserting that Claimant was not qualified to operate the Cline truck. The Organization thereafter filed a claim on Claimant's behalf, challenging Carrier's denial of Claimant's request.

This Board has reviewed the evidence in this case, and we find that the Organization was unable to prove that the Claimant possessed the qualifications to operate the Cline truck. Therefore, the Carrier acted within its rights and the claim must be denied.

The record demonstrates that although the Claimant had more seniority, he did not possess the appropriate Class II driver's license that is required for the job. Moreover, the Claimant did not have the experience or meet other qualifications required for the job. The record demonstrates that the Claimant had the opportunity to qualify for the job by learning it at an earlier time, but did not take advantage of that learning opportunity.

As this Board has stated in the past, the Carrier must be the judge of the ability of an employee to perform a certain job. The Organization bears the burden of proving that the Carrier was unreasonable in its assessment of an individual's qualifications. That burden has not been met here; and, therefore, 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 29th day of June 1988.