

The Second Division consisted of the regular members and in addition Referee George S. Roukis when award was rendered.

(Timothy L. Zabek
PARTIES TO DISPUTE: (
(Consolidated Rail Corporation

STATEMENT OF CLAIM:

While furloughed Consolidated Rail Corp posted the positions opening for 2 Gang lineman. I made application for this job on Feb 22, 1988 to the proper department. The bid was awarded to E.W.SHALTZ and B.J.PARRISH despite the fact that said individuals DID NOT possess the Qualifications required in the job posting. I possessed the proper qualifications for the job and should have been awarded the bid. I seek an award of monetary damages for lost pay from MARCH 2, 1988 to JULY 4, 1988 in the amount of \$10,060.56 regular pay and any and all monies of accumulated overtime during this period.

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.

In considering this dispute, the Board is compelled to deny the claim. We have carefully examined the fact specifics of this case within the context of the cited Agreement Rules and cannot conclude that said Rules were violated. Rule 1-A-1 (a) deals with new applicants for employment. Rule 2-A-1 (a) pertains to special types of work such as welding, high voltage, etc., where applicants must show by trial the qualifications needed to perform the work. Licenses and certifications are not pivotal considerations. Rule 3-C-7 has no application to these circumstances and Rule 2-A-4 (a) 5 relates to the filling of day to day and vacation vacancies. As the moving party, Claimant is responsible for showing how these Rules were actually violated and he has not met this proof burden. The Board also takes judicial notice that in the claim progressed to this Board, Claimant asserted that Rule 2-A-3 (a) 2 was violated and Carrier raised several procedural objections. Since these reflect new argumentative positions, they are improperly before us under Board Circular Rule No. 1. Accordingly, the claim is denied.

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Award No. 12076
Docket No. 11873-I
91-2-89-2-182

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 10th day of July 1991.