

The Second Division consisted of the regular members and in addition Referee Eckehard Muessig when award was rendered.

PARTIES TO DISPUTE: (International Brotherhood of Electrical Workers
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(Burlington Northern Railroad Company

STATEMENT OF CLAIM:

1. That in violation of the governing Agreement, Rules 75, 76, 95 and 98, in particular, the Burlington Northern Railroad Company arbitrarily changed the qualification requirements for two electrical positions at the Havelock, Nebraska Shop.

2. That accordingly, the Burlington Northern Railroad Company should be ordered to abolish the two positions at the Havelock, Nebraska Shop whose qualifications had been changed.

3. Further, that the Burlington Northern Railroad Company be ordered to rebulletin these two positions per Rule 13, with provisions of Rule 75 as the only qualification required.

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 significant events leading to this Claim arose in August and September 1988 after the Carrier established two electrical positions at its Havelock Car Shop in Nebraska. Applicants for the Electrician's positions were required to have a Nebraska or equivalent Class A license. The Carrier had been told it stood in violation of the Electrical Code for the City of Lincoln, Nebraska because none of the Carrier's Electricians employed at the Havelock facility possessed a City or State Class "A" Electrician's License.

The Claim must be denied because it was not filed within sixty (60) days after the two positions were assigned. Also, the Board observes that the Carrier has considerable discretion when it must comply with external law, a situation that we find was present in this case. (See, Second Division Awards 5924, 10590, 8515.)

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 27th day of May 1992.