

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 12395
Docket No. 12385
92-2-91-2-178

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

PARTIES TO DISPUTE: (International Brotherhood of Electrical Workers
(Chicago and North Western Transportation Company

STATEMENT OF CLAIM:

1. That the Chicago & North Western Transportation Company violated the December 1, 1985 Agreement, as amended, in particular Rule Nos. 16, 19, 73 and 74, when they issued Bulletin No. 786, on February 26, 1990.

2. That the Chicago & North Western Transportation Company withdraw the unlawful and improper Bulletin No. 786, dated February 22, 1990.

3. That the Chicago & North Western Transportation Company be ordered to cease and (sic) desist from the inclusion on said bulletins for the position of Traveling Mechanic Electrician; and/or Traveling Mechanic Leader-System unlawful and improper qualifications as:

"Successful bidder ***, must possess and maintain an 'A' Master Electrician License in Minnesota, South Dakota and Wisconsin."

4. That the Chicago & North Western Transportation Company make employes of the Electrician Craft whole who are damaged by virtue of such aforesaid Bulletins.

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.

This dispute arises because the Carrier on February 22, 1990, issued a bulletin soliciting bids on a new job to be known as Traveling Mechanic Electrician Leader-System. In addition to the normal requirements for previous bulletins the bidder, in order to qualify, had to possess an "A" Master Electrician License in Minnesota, South Dakota, and Wisconsin.

The Organization views such action as a change in past practice and a violation of the contract rules covering seniority, bulletining of positions, and descriptions of job qualifications in the electrical engineering department.

The gravamen of the dispute resides in the addition of the requirement of an "A" Master Electrician License in order to qualify for the position. The Organization does not deny that an "A" license is necessary to approve certain work but insists that such a license in the past had been held by a management employee whose qualifications served as an umbrella over the Electricians in so far as legal requirements were concerned. Therefore, the Traveling Mechanic Electrician had not been required to possess the "A" license. While no such requirement had been in previous bulletins, the record reveals that the last Carrier Officer to possess such a license left the Carrier in 1976. Since that time the Carrier had used licensed contractors to oversee the work. In 1990 the State of Minnesota inspectors began to require closer supervision by the "A" licensed electricians than a contractor would provide. Accordingly, the Carrier simply made a decision to establish a position that would require an "A" license in order to provide the required supervision. The Organization takes the position that while the State of Minnesota requires that an employee of the Carrier possess a Class "A" Master Electrician License, the practice in the past had been that a managerial person possess such a permit. Such a claim is not completely accurate as outlined heretofore. In view of the increased supervision required by the State, such a practice would require that the management person be present during much of the work. Such a practice would certainly not be as efficient as having the Traveling Electrician qualified to do the work.

The record in this case is voluminous and there is much discussion regarding the requirements of the law in the State of Minnesota. It is not the function of this Board to interpret the statutes of the state and it would be improper to do so. It is sufficient to note that the parties agree that an "A" license is required. It is also clear that nothing in the statute or the Collective Bargaining Agreement requires that the holder of the license be a Carrier Officer or an employee. As long as the individual is qualified and possesses the "A" license it can be any designated person.

In the present dispute, the Carrier simply made the decision to create the position of Traveling Mechanic Electrician-Leader in order to fulfill the requirements of the statute in an efficient manner. There is nothing in the Rules quoted by the Organization which negates their right to do so. The Carrier certainly did not act in an arbitrary, discriminatory, or capricious fashion in so doing. It should be noted that the affected employees can obtain an "A" license to qualify and could be reimbursed for their expenses by the Carrier under its tuition reimbursement system.

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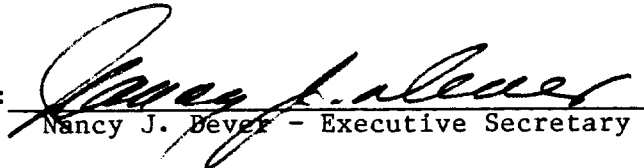
Management has long retained the right to establish qualifications for a particular job and that right has been upheld by a long series of Awards by this Board. In view of the foregoing and the entire record we determine that the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Bever - Executive Secretary

Dated at Chicago, Illinois, this 22nd day of July 1992.