

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Award No. 13326

Docket No. 13151

98-2-96-2-53

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

(International Brotherhood of Electrical Workers

(System Council No. 16

PARTIES TO DISPUTE: (

(Burlington Northern Railroad

STATEMENT OF CLAIM:

- “1. That in violation of the governing Agreement, Rule 27 in particular, Communications Department Electronic Technician L.W. Reasoner was deprived of his right to bid for a new position with the Burlington Northern Railroad Company.
2. That a new position was in fact created, not properly bulletined but was filled by appointment, thus violating the governing Agreement, and;
3. That the Burlington Northern Railroad Company should be directed to properly bulletin the new position in accordance with the rules of the governing Agreement.”

FINDINGS:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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 were given due notice of hearing thereon.

The claim before the Board is that the Carrier "created" a new third trick position of Electronic Technician, failed to bulletin it, and then filled it by the appointment of one of the Carrier's Supervisors. The Claimant contends that he was deprived of his right to bid on the "new position."

The record developed in this case is not very precise. It appears that the Carrier established a new third trick Electronic Technician position and placed R. E. Rowe ("Rowe") in that position on September 1, 1994. It then contacted other employees to fill Rowe's vacancy, resulting in the assignment of Electronic Technician R. A. Bergeron ("Bergeron") into the position vacated by Rowe. The position vacated by Bergeron then was bulletined and filled.

The Board is unable to ascertain from the evidence developed on the property what Agreement provisions were violated.

In summary, the Organization has not met its burden of proof for the claim.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Dated at Chicago, Illinois, this 16th day of September 1998.