

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Award No. 13616

Docket No. 13514

01-2-99-2-120

The Second Division consisted of the regular members and in addition Referee Martin H. Malin when award was rendered.

**(Brotherhood of Railway Carmen Division/
(Transportation Communications International Union
PARTIES TO DISPUTE: (
(Union Pacific Fruit Express Company**

STATEMENT OF CLAIM:

“Claim of the Committee of the Union that:

- 1. Union Pacific Freight Express Company (hereinafter referred to as the Company or UFPE) was in violation of Rule 9, ‘Filling New Jobs or Permanent Vacancies’, Rule 14 ‘Seniority’, Rule 15 ‘Exercise of Seniority’, and Appendix 6, Section III, Paragraph 4(b) ‘Training Program’**
- 2. The UFPE Company violated the agreement October 27, 1998 when it did not award Carman Welder (CW 61) on Bulletin number 813 dated November 10, 1998 to the oldest employee in the Carmen group Mr. D. L. Poe the Claimant who bid on the position and.**
- 3. The UFPE Company violated the agreement October 27, 1998 when it did not award Carman Welder (CW 81) on Bulletin number 813 dated November 10, 1998 to the oldest employee in the Carmen group Mr. S. L. Mitchell the Claimant who bid on the position and.**
- 4. Stop forcing Carmen who CMR qualified to CMR positions, and to recognize that it is necessary to train a sufficient number of employees for Mechanical Refrigeration Repairmen work.**
- 5. Allow the Claimant to place himself on Carman welder position CW83 that he bid.**

6. Compensate all employee's losses accrued by these violation's of the 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 Claimants are Carmen Welders who are qualified as Carman Mechanical Refrigeration Repairmen (CMRR). On October 20, 1998, the Carrier put the Claimants' carmen welder positions up for bid, along with two CMRR positions. The Carrier received no bids on the CMRR positions and forced assigned the Claimants to those positions because the Claimants were the most junior employees who were CMRR qualified. The Carrier accepted the bids of two employees who were junior to the Claimants but who were not CMRR qualified for the Claimants' former carmen welder positions.

Our review of the record fails to disclose any evidence that the Claimants suffered any detriment as a result of the Carrier's actions. It is undisputed that the CMRR positions have a higher rate of pay than the carmen welder positions. There is no evidence that the Claimants suffered a loss of overtime or other work opportunities or that they suffered any other detriment, such as a forced change in work hours. Accordingly, we are unable to find that this case presents a live controversy. The Board does not render advisory opinions. Therefore, the claims must be dismissed.

Form 1
Page 3

Award No. 13616
Docket No. 13514
01-2-99-2-120

AWARD

Claim dismissed.

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 4th day of June, 2001.