

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

**Award No. 13618
Docket No. 13516
01-2-99-2-122**

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 UPFE) 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 UPFE Company violated the agreement November 5, 1998 when it did not award Carman Welder (CW 78) on Bulletin number 815 dated October 28, 1998 to the oldest employee in the Carmen group Mr. D. L. Poe the Claimant who bid on the position and.**
- 3. 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.**
- 4. Allow the Claimant to place himself on Carman welder position CW78 that he bid.**
- 5. 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 Claimant is a Carmen Welder who is qualified as Carman Mechanical Refrigeration Repairmen (CMRR). On October 20, 1998, the Carrier put the Claimant's Carmen Welder position up for bid, along with two CMRR positions. The Carrier received no bids on the CMRR positions and forced assigned the Claimant to one of those positions because the Claimant was one of the two most junior employees who were CMRR qualified. The Carrier accepted the bids of two employees who were junior to the Claimant but who were not CMRR qualified for the Claimant's and another employee's former Carmen Welder positions.

On October 28, 1998, the Carrier bulletined one Carmen Welder position. The Claimant bid on that position, but the Carrier awarded it to a junior employee who was not CMRR qualified. The Organization maintains that the Agreement required the Carrier to award the position to the Claimant.

Our review of the record fails to disclose any evidence that the Claimant suffered any detriment as a result of the Carrier's actions. It is undisputed that the CMRR position has a higher rate of pay than the Carmen Welder position. There is no evidence that the Claimant suffered a loss of overtime or other work opportunities or that he 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. 13618
Docket No. 13516
01-2-99-2-122**

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.