

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Award No. 13746

Docket No. 13643

03-2-01-2-47

The Second Division consisted of the regular members and in addition Referee Carol J. Zamperini when award was rendered.

PARTIES TO DISPUTE: (Sheet Metal Workers' International Association
(Springfield Terminal Railway Company)

STATEMENT OF CLAIM:

- “1. The Springfield Terminal Railway Company violated Rule 24 of the current and controlling Agreement between the Sheet Metal Workers' International Association and the Springfield Terminal Railway Company, (hereinafter referred to as the Carrier) when they refused to allow Sheet Metal Worker Donald Adams (hereinafter referred to as Claimant) his contractual right to displace an employee with less seniority after being involuntarily displaced.
2. That the Carrier compensate the Claimant at the rate of \$18.15 per hour, for eight hours a day, for the period beginning on May 24, 2000 and continuing until his recall to the service of the Carrier on October 26, 2000. Further, he is additionally entitled to any pay resulting from the overtime worked at East Deerfield, MA by junior employee L. A. Pedruczny during the aforementioned period of time.”

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.

On May 24, 2000, the Claimant was displaced from his position as a Sheet Metal worker at Waterville, Maine, by a senior employee. At that time, the Claimant was denied the right to displace a junior employee who worked at Deerfield, Massachusetts, because he did not hold a Massachusetts State Master Plumber License.

On June 16, 2000, the Organization filed a grievance on behalf of the Claimant. After discussing the matter in conference, the parties agreed to place the claim on hold while they attempted to arrive at an equitable settlement. In the interim, a position became available in Waterville, Maine, for which the Claimant held seniority and was qualified. He filled that position until he resigned from The Springfield Terminal Railway on December 8, 2000.

The parties continued to discuss the instant claim during two subsequent conferences. After the second conference, the claim was denied in writing and on December 18, 2001, the Organization filed its Notice of Intent with the Second Division.

The Organization holds that the Claimant is entitled to the full protection of the controlling Agreement, particularly Rule 24. The Organization insist the Carrier violated the Agreement when the Carrier did not allow the Claimant to displace a junior employee. The Organization maintains the language of Rule 24 is precise and unambiguous in its intent.

The Organization rejects the Carrier's contention that a Massachusetts State Master Plumber License was required for the position. It contends there is no such requirement in the controlling Agreement. Furthermore, the Organization contends the Carrier did not respond when asked by the Claimant if the junior employee possessed the license in question. Regardless, the Organization argues, the Claimant possessed a valid Maine State Oil Burner License, a Maine State license for Propane and a Maine State License for Boiler Operator, which were the only requirements listed when the job was posted. In addition, the Organization claims the man who displaced the Claimant from his previous position did not hold the aforementioned licenses. The Organization ask how he was allowed to displace the Claimant.

The Organization doubts the Carrier would have allowed the Claimant to work in his position well over two years if he lacked the requisite qualifications. The Organization reiterates the Agreement does not require a valid Massachusetts State Master Plumber License, therefore, the Carrier erred when they did not allow the Claimant to displace the junior employee.

The Carrier maintains the Organization's position is unfounded. The Carrier points out the Claimant did not possess the requisite Massachusetts State Master Plumber License and therefore was not qualified for the position at Deerfield, Massachusetts.

As to the merits, the Carrier contends that the position held by the junior employee required the requisite license and the Claimant did not possess such a license. The Carrier notes that the Organization never disputed either assertion, therefore, they must stand as fact. The Carrier concedes the Agreement does not require a Massachusetts State Master Plumber License but it does require that an employee be qualified and in order to be qualified for the position, the employee must possess the license.

The Carrier notes arbitral authority upholding the Carrier's right to set qualifications, provided they are reasonable. Requiring an employee who works in the state of Massachusetts to possess a valid Massachusetts State plumbers license is reasonable. Since many of the job duties performed in the Deerfield position require the Massachusetts license, the Carrier insist the Claimant was not qualified. The Carrier cites arbitration Awards in support of the Carrier's position not to allow employees to exercise their seniority on positions for which they are not qualified.

The Board has reviewed the evidence in this case and must concur with the Carrier. There is no evidence in this record which comes close to demonstrating that the employee who holds the position in question did not possess the requisite license. More importantly, it is well established by arbitral authority that employers have the right to establish reasonable qualifications for any position. We do not find it unreasonable for them to require a Massachusetts Master Plumber License, especially if it is required by the State.

Furthermore, an employee cannot exercise his seniority rights into a position for which he is not qualified.

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 30th day of June 2003.