

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

**Award No. 13782
Docket No. 13671
03-2-02-2-32**

The Second Division consisted of the regular members and in addition Referee Don A. Hampton when award was rendered.

**(Brotherhood Railway Carmen Division
(Transportation Communications International Union
PARTIES TO DISPUTE: (
(Springfield Terminal Railway Company**

STATEMENT OF CLAIM:

“Claim of the Committee of the Union that:

- 1. The Springfield Terminal Railway Company violated the terms of our current agreement, in particular Rule 12.4(b), when they arbitrarily failed to recognize the seniority of Carman Raymond A. Delano in the daily assignment of work.**
- 2. That, accordingly, the Springfield Terminal Railway Company be ordered to allow Carman Raymond A. Delano his seniority rights, as provided for in the aforementioned rule. Furthermore, the carrier be ordered to compensate Carman Raymond A. Delano in the amount of eight (8) hours at the straight-time rate for the continued violation of this rule.”**

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 January 3, 2001 the Claimant was assigned to do air brake tests on the outside repair track. The Claimant requested that he be allowed to displace another junior Carmen who was assigned to drive a dump truck engaged in snow removal. This request was denied by the Carrier and the Organization filed a claim on February 27, 2001 contending that the Carrier's denial of the Claimant's request was a violation of Rule 12.4(b).

Rule 12.4(b) reads:

"In the daily assignment of work to employees awarded positions under this Rule, fitness, ability and qualifications being equal seniority will prevail."

We have reviewed the entire file in this matter noting the Carrier's contention that since both jobs were outside there was no Rule violation. The Carrier further contends that previous claims sustained at the Board were dissimilar to this claim and therefore the claim must be denied.

Second Division Awards 13282, 13452, and 13669 between this Organization and this Carrier have interpreted Rule 12.4(b) and we can find no reason to provide a different interpretation. It should be noted that the Rule in question speaks to the daily assignment of work with no limitations regarding inside or outside assignments. The limitations are based on fitness, ability, and qualifications. Should these qualifications be equal seniority will prevail in the daily assignment of work. As these limitations were not an issue in this claim the claim will be sustained as presented.

AWARD

Claim sustained.

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ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Dated at Chicago, Illinois, this 24th day of October 2003.