

Award No. 15853
Docket No. TE-14495

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

John J. McGovern, Referee

PARTIES TO DISPUTE:

TRANSPORTATION-COMMUNICATION EMPLOYEES UNION
(Formerly The Order of Railroad Telegraphers)

UNION PACIFIC RAILROAD COMPANY
(Northwestern District)

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Union Pacific Railroad (Western Lines), that:

1. Carrier violated the Agreement between the parties when it failed and refused to assign F. C. Zielke to the position of agent at Hood River, Oregon, which was advertised for applications. Mr. Zielke was the senior qualified applicant for the position but Carrier, instead, assigned said position of agent at Hood River to Mr. Belt, who was the ninth senior applicant for the position.

2. Carrier shall assign F. C. Zielke to the position of agent at Hood River, Oregon, and shall pay him the difference between the rate of pay of the position he has occupied, and the rate of said position at Hood River, commencing on August 14, 1962, and continuing thereafter until the violation outlined above has been corrected.

EMPLOYEES' STATEMENT OF FACTS: The Agreement between the parties, effective October 1, 1959, as amended and supplemented, is available to your Board and by this reference is made a part hereof.

Hood River, Oregon is one of many stations on the Carrier's lines at which it employs a monthly rated agent. Such monthly rate covers all services rendered except that rendered on one rest day per week which is usually Sunday. Assignments to these positions are not made strictly in accordance with the Bulletin and Assignment Rules but are bulletined and applications considered on basis of qualifications. The applicants must be approved by the General Manager and Traffic Department. Where qualifications are sufficient, seniority governs.

On July 16, 1962, Mr. G. H. Baker issued bulletin which included the advertisement of vacancy in the position of Hood River, showing Sunday as rest day, no assigned hours, rate of pay \$829.59, assignment to be made as provided in Rule 2 and the qualifications agency work — handle station work and supervise forces.

Pendleton is not involved in this proceeding. The Assistant to Vice President-Personnel's letter of October 24, 1962 reaffirms the Carrier's decisions to appoint Belt to the agency at Hood River, and again rejects Zielke's claim for assignment on the basis of insufficient qualifications.

The General Chairman wrote the Assistant to Vice President-Personnel, the highest officer designated by the Carrier to handle such matters, under date of October 31, 1962, per copy attached and marked Carrier's Exhibit G, appealing decision of the Supervisor of Wage Schedules.

On November 5, 1962, the Assistant to Vice President-Personnel rejected the General Chairman's appeal of Zielke's claim for appointment to the agency at Hood River, citing as reasons the fact Zielke was then 67 years of age, his entire service had been limited to one-man agencies; and in light of the qualifications required for the agency at Hood River, the Agreement was not violated when other than the senior applicant was appointed. Copy of that letter is attached and marked Carrier's Exhibit H.

A third conference was held at Portland on March 18, 1963, at which time the parties again reviewed Zielke's qualifications. Under date of April 4, 1963 the Assistant to Vice President-Personnel addressed a letter to the General Chairman, per copy attached and marked Carrier's Exhibit I, reiterating in considerable detail the points discussed in conference.

The General Chairman again rejected the Carrier's decision in his letter dated April 8, 1963, per copy attached and marked Carrier's Exhibit J; and stated the list of Rule 2 agency appointments cited in Carrier's letter of April 4 was new material.

The Assistant to Vice President-Personnel responded by letter dated April 17, 1963, reminding the General Chairman that the list referred to was reviewed by the parties agency by agency in their conference March 18, 1963. Copy of that letter is attached and marked Carrier's Exhibit K.

A fourth conference was held between the parties at Portland on April 30, 1963, at which time the Carrier's reasons for not appointing Zielke were again thoroughly reviewed and discussed. The Assistant to Vice President-Personnel's letter dated May 23, 1963, per copy attached and marked Carrier's Exhibit L, confirmed the Carrier's position and reaffirmed denial of the claim.

(Exhibits not reproduced.)

OPINION OF BOARD: The issue, the parties to the dispute, the exact rule, are identical to those involved in Award 15780. Only the name of the Claimant is different. The precise issue to be determined is whether Carrier acted in an arbitrary, capricious and unreasonable manner, by appointing another individual junior to Claimant to the position of Agent at Hood River, Oregon. We cannot say, after a review of the record, that Carrier has acted in that manner. We will, therefore, deny the claim. (See Award 15780.)

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier and the Employes involved in this dispute are respectively Carrier and Employes within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 13th day of October 1967.