

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20461  
Docket Number MW-20574

William M. Edgett, Referee

PARTIES TO DISPUTE: (Brotherhood of **Maintenance** of Way Employes  
(Kansas City Terminal Railway Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

(1) The disqualification of R. H. **Beaman** as assistant track foreman on February 8, 1973 was without just and sufficient cause and on the basis of unproven charges (System File **MW-2.73.180**).

(2) Mr. R. H. Be- be restored to his position as assistant track for- with all rights unimpaired and reimbursement be made for loss of earnings suffered.

OPINION OF BOARD: Claimant, as the senior applicant, was assigned the position of Assistant Track For- on December 5, 1972. Carrier disqualified him from the position after approximately two **months** because it was not satisfied with his performance.

Claimant requested an investigation which was held on February 14, 1960. In the Investigation Carrier showed that Claimant's job knowledge was not up to the requirements of the position and that he was not making any effort to correct the situation. **His** lack of skill extended to both the technical aspects of his job and the ability to supervise other employees. The Board has held, in cases such as this, that when Carrier determines that an employee lacks the requisite fitness and ability, the burden shifts to the employee to prove that he or she possesses the requisite fitness and ability to occupy the position. Claimant, on the **record** before the Board, has failed to sustain that burden.

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 **Employees** involved in this dispute are respectively Carrier and **Employees** 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 has not been violated.

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Docket Number MW-20574

Page 2

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~~Claim~~denied.

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By Order of Third Division

ATTEST: A. W. Paulsen  
Executive Secretary

Dated at Chicago, Illinois, this 25th day of October 1974.