

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23604
Docket Number CL-23697

Joseph A. Sickles, Referee

(Brotherhood of Railway, Airline and Steamship Clerks,
(Freight **Handlers**, Express And Station **Employees**
PARTIES TO DISPUTE: (Southern Pacific Transportation Company (Pacific Lines)

STATEMENT OF CLAIM: Claim of the System **Committee** of the **Brotherhood** (GL-9261)
that:

(A) **The Southern Pacific Transportation Company violated** the current Clerks' Agreement, **particularly** Rules 24, 27, 36 And 50 thereof, when it disqualified **employee** D. W. Craig from Position 811, Maintenance of Way Clerk, upheld the **disqualification** following investigation, And then **failed to make** a decision within sixty (60) days respecting **claim** filed by Mr. Craig; and,

(b) **The Southern Pacific Transportation Company shall now be** required to allow Mr. Craig eight (8) hours' **compensation** At the rate of Position NO. 811 beginning August 13, 1978 And continuing each date **thereafter** until he is restored thereto.

OPINION OF BOARD: The Employee **displaced** on Position No. 811, And After 9 **days** of **training** upon the position he was disqualified. He requested **an** investigation, which resulted in a sustaining of the **disqualification** **because** the Employee **"had not demonstrated** the Ability to qualify for Position NO. 811."

Also involved in this dispute is the Assertion that the **Carrier** did not take certain required Action within the prescribed sixty (60) **day** period and the question of when the period started in this **particular** case.

We have reviewed the record extensively in **that** regard, and we are **inclined** to rule that the **Board** will not base its decision on that **procedural** issue in this case, because we have difficulty with A full comprehension of the contentions of **either** side, **and** inasmuch as there is not enough detail in the record for us to comfortably rest the case on the procedural issue, we will **make** our determination based upon the merits of the case.

Concerning the **disqualification** itself, we feel **that** the Employee did receive **adequate** time to **demonstrate** his fitness **and** Ability **for** the position, And we find nothing of record to **indicate that** the Carrier's Action Of disqualification WAS **inappropriate** in this case.

Concerning the indication that the **fact** that the Employee **may have** pursued the question of qualification on A prior instance is not truly material to this dispute. Surely, the fact that **an** employee was properly disqualified At one time does not **automatically** foreclose him from bidding And being **awarded** the position in the future, because each new case must rest upon its own

individual fact circumstances and the qualifications for a position must be reviewed separately in each attempt to obtain a position.

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** was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: Acting Executive Secretary
National Railroad Adjustment Board

By Rosemarie Brasch
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 10th day of March 1982.

