

NATIONAL RAILROAD **ADJUSTMENT** BOARD
THIRD DIVISION

Award Number **24403**
Docket Number **MS-24858**

PARTIES TO DISPUTE: (S. K. Anderson
(The Denver and Rio **Grande** Western Railroad Company

STATEMENT OF CLAIM: " **ascertaining** the proper procedures for the
assignment of seniority related position "

OPINION OF BOARD: Petitioner S. K. Anderson was employed by Carrier as a Bridge **and** Building Carpenter with seniority in that class dating July 25, **1978**. The regularly assigned foreman of petitioner's **gang** took his **vacation** June **15, 1981 through** June **19, 1981**. A Bridge and Building Carpenter **with** seniority date of July **25, 1978** was assigned to and worked as relief Foreman of the gang during the five-day vacation vacancy. Petitioner contends, on basis of overall seniority, he should have been assigned the **vacancy**. Carrier denied the claim asserting petitioner lacked fitness **and** ability to fulfill the duties of foreman.

The record in the case before us is barren of evidence that would **support** a finding that petitioner possessed the indispensable fitness and ability. Accordingly, petitioner has failed to sustain the burden of **showing** by substantial evidence that he possessed the requisite fitness and ability or that the decision of the Carrier was arbitrary or capricious, and the claim is denied.

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

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

That the Agreement was not violated.

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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 **26th** day of **May 1983**.

