

-NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24755  
Docket Number MW-23846

Josef P. Sirefman, Referee

(Brotherhood of Maintenance of Way **Employees**

PARTIES TO DISPUTE: (

(Southern Pacific Transportation Company (Pacific Lines)

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

(1) The Carrier's disqualification of Ballast Tamper (Multiple) Operator G. R. Morentin as operator of Ballast Tamper No. **112RC Canron** Model ETGD (assigned to Extra Gang No. **43**) on January 23, 1979 was improper, without just, sufficient or reasonable cause and in violation of the Agreement (System File **MoFW** 36-212).

(2) Because of the **aforsaid** violation, G. R. Morentin shall **be** permitted to displace the operator of Ballast Tamper No. **112RC** assigned to Extra Gang No. 43; be accorded on-the-job training as is necessary for him to become proficient in the operation thereof; be allowed the difference in what he received in a lower rated position and what he should have received as operator of Ballast Tamper NO. **112RC**, beginning January 23, 1979; be allowed all expenses incurred as presented and itemized on expense sheets and be compensated for all time **expended** traveling to and from the position on which he was required to displace.

(3) The discipline (letter of reprimand dated April 23, 1979) was improper and unwarranted and same shall be expunged from the claimant's personal record because of the Carrier's failure to hold and conduct **an** investigation ii? compliance with the procedural requirements of Rule 45(a).

OPINION OF BOARD: Claimant G.R. **Moretin**, a Ballast Tamper (Multiple) Operator with class 6 seniority, returned to work from an authorized leave on January 22, 1979. **During** his absence his position was abolished and Claimant bid into a position requiring him to operate a new model ballast tamper No. **112RC**. After the second day of training Claimant was notified that the Carrier did not accept him on the new machine under Rule 8 (c) "as you do not meet the necessary qualifications to operate **this** machine".

It is well established that management can consider an employee's basic fitness for a position as well as the seniority factor (Third Division Award 21243). Therefore, the issue reduces to whether or not Claimant, under Rule 8, was given sufficient opportunity to acquire proficiency on a new and more complex piece of equipment than he had heretofore operated. Although the training period afforded Claimant **on** the new machine would appear to have been rather brief, an examination of the record establishes that even though the new machine had some similar features with those he had already operated, there was no reason to believe that more extensive training at that time would have been beneficial. Claimant did not master the first phase of training after two days, even though the average time needed for that operation appears to **be**

a half a day. More important, there is nothing in the record to refute the assertion by his supervisors that Claimant, despite his relatively slow progress, was not receptive to instruction. Under these circumstances there was no need to prolong the training **period** for a seemingly reluctant student. There is no basis in the record for granting the claim for expenses on the job Claimant worked after his **112RC** training was terminated. The part of the claim dealing with a letter of reprimand has been resolved on the property so this matter is **moot**. The agreement was not violated.

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

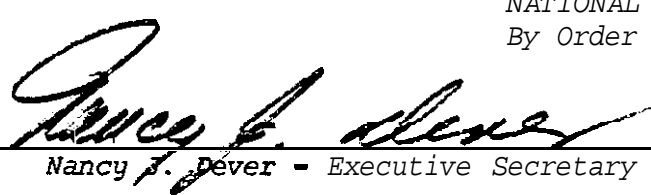
That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD **ADJUSTMENT** BOARD  
By Order of Third Division

ATTEST:

  
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois this 30th day of March, 1984

