

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25006
Docket Number MW-25136

Thomas F. Carey, Referee

PARTIES TO DISPUTE: ((Brotherhood of Maintenance of Way **Employees**
(St. Louis Southwestern Railway Company

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

(1) The Agreement was violated when the position of specialized gang foreman as advertised by Vacancy Bid #2 was awarded to **an** applicant junior to Foreman T. V. Edwards (System File MW-82-14-CB).

(2) Because of the aforesaid violation, the claimant shall be awarded seniority as a specialized gang foreman dating from January 27, 1982 and he shall be allowed the difference between what he earned in a lower rated position and what he should have earned as a specialized gang foreman during the period January 27, 1982 through May 28, 1982, **both** dates inclusive."

OPINION OF BOARD: Claimant submitted **an** application for the position of specialized gang foreman on an Extra Gang. Another foreman, junior in seniority, was assigned to the specialized gang foreman's position, and this is the basis for the dispute.

While the record clearly shows the Claimant to have seniority, it also shows that in relation to the establishment of specialized production gangs, Management is to be the judge of credentials of applicants for those positions. Section 2(c) of the Memorandum of Agreement, dated January 11, 1982 states that:

"This position will be bulletined and assigned to the senior applicant when experience **and** ability are equal. Management to be the judge."

The foreman assigned to the specialized production gang had held that position for over a year and there is nothing in the record to indicate that the Carrier gave less than careful consideration to each of the **employees'** work experience, personal records, and their ability to keep and maintain records. In the Carrier's **judgement**, it had reasonable grounds to find the Selectee the more qualified and experienced of the two applicants. The decision is found to conform to the requirements of both Article 2(c) and Article 8 of the Agreement.

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. Dover - Executive Secretary

Dated at Chicago, Illinois, this 26th day of September 1984