

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25280
Docket Number MW-24849

Rodney E. Dennis, Referee

(Brotherhood of Maintenance of Way **Employees**
PARTIES TO DISPUTE: (
(Burlington Northern Railroad Company
(Former St. **Louis-San** Francisco Railway Company)

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

(1) The Carrier violated the **Agreement** when it assigned and used **Trackman** L. R. **Wayland** instead of **Trackman** R. L. Conley to fill a vacancy as 'Operator of TM-164" on June 22, 1981 (System File **B-1633/MWC 81-12-1A**).

(2)(a) The position of "Operator of TM-164" be awarded to Mr. R. L. Conley with seniority as such dating from June 22, 1981.

(b) Claimant R. L. Conley shall be allowed the difference between what he earned as a **trackman** and what he should have earned as 'Operator of TM-164" beginning June 22, 1981 and to continue until the violation is terminated.

OPINION OF BOARD: On June 1, 1981, Carrier **advertised** an Operator's position. Interested bidders had until 12:00 noon on **June** 12, 1981, to submit bids. Claimant R. L. Conley, a **Trackman**, submitted a timely bid. L. R. **Wayland**, the man eventually placed in the job, did not submit a timely bid. He did, however, have on file a previous bid on a Machine Operator's job.

Carrier contends that neither Conley nor **Wayland** had any bidding rights on Special Equipment Operators' positions, since **Trackman** and Special Equipment Operators are covered by entirely separate Schedule Agreements.

The Organization countered by arguing that since no one on the Special Equipment Operators' Seniority List bid on the Special Equipment Operators opening and it **was going** to be filled by someone from the **Trackmen's** Seniority List, it should be filled in accordance with the Rules of the August 1, 1975 Agreement. **Specifically**, the most senior qualified bidder should be awarded the job.

Carrier eventually stated that in the final analysis, **Wayland** was more senior to the Claimant and that even if seniority between **Wayland** and Conley were a factor in this case (and it contends that it is not), **Wayland** should have been awarded the job.

This Board has reviewed the record before us and concludes that Carrier presents the more persuasive argument in this instance, We can find no basis in this record to sustain this claim.

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. Deyer - Executive Secretary

bated at Chicago. Illinois, this 28th day of February 1985.