

NATIONAL RAILROAD **ADJUSTMENT** BOARD

THIRD DIVISION

Award Number 25528
Docket Number CL-25754

James Robert Cox, Referee

(Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station **Employees**

PARTIES TO DISPUTE: (

(Denver and Rio **Grande** Western Railroad Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (**GL-9919**)
that:

1. Carrier violated Rule **3(c)**, **8** and other related rules of the Agreement, when on February 24, 1983 the Carrier hired Mr. **J. L. Parmley** as a new **employee** instead of utilizing Mr. C. Simpson, already employed by the Carrier.

2. Carrier will now be required to place Mr. C. Simpson on the M.I.S. Seniority Roster ahead of Mr. Parmley, also to pay any differential in pay that is involved. Commencing February 24, 1983 **and to** continue until **this** claim is resolved.

OPINION OF BOARD: The Organization contends that the Carrier violated Rules **3(c)** and **8(a)** when they hired **J. L. Parmley** on February 24, 1983, as a Computer Operator instead of utilizing Claimant Simpson in the M.I.S. Department. The job had been bulletined as Senior Operator 238 February 6, 1983, and the Organization contends that the Carrier's requirement that applicants have **"no** less than one year actual experience as an **Operator"** arbitrary and capricious and designed to exclude current employees from the position. The Carrier rejected Claimant's bid, determined that there were no qualified bidders and hired from outside.

Rule **3(c)** states:

"In the event an employee from another seniority district makes application for a position which is being filled pending bulletin **and/or** assignment by an employee hired for that purpose, such employee shall be given preference over the newly hired employee . . . the provisions of this paragraph (c) will apply only on the first position bulletin where the employee hired to temporarily fill the position would otherwise be the successful applicant."

Rule **8(a)** states that employees entitled to bulletin positions will be allowed 30 days in which to qualify. The Carrier refused the Organization's request that Claimant be given a test for Computer Operator in order to demonstrate his "skills and aptitude to handle this fully covered position,."

Rule **6(a)** states that **"...promotion**, assignments and displacements shall be based on seniority, fitness and ability; fitness and ability being sufficient, seniority shall prevail...". Rule 9 reads, **"Employees** filing applications for positions on other districts or on other rosters will, **if** they possess sufficient fitness and ability, be given preference over non-employees."

There was no evidence that any **employee** had ever been assigned the sought job without having had prior experience of at least a year.

The evidence further establishes that this experience requirement is reasonable. There is one Operator on duty per shift and an applicant must have prior knowledge of the work in order to perform alone on computers which involve the Carrier's Main Frame. The job required that the Operator **run** the computer, respond to computer request problems and correct errors.

Claimant does not have the one year actual experience required. Claimant's work for nine months in a Country Sheriff's Department and as a Relay Operator for the Carrier does not constitute equivalent experience. Since Claimant Simpson does not have the fitness and ability required to meet the basic qualifications for the job, she need not be given a trial based upon her seniority. See Third Division Award 21243. The preference accorded applicants from other seniority districts by Rule 3(c) does not vitiate the fitness and ability requirements of Rules 6(a) and 9.

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

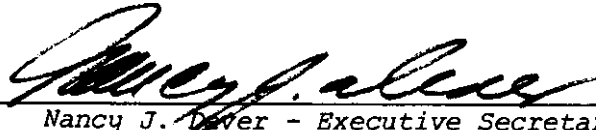
That the Agreement was not violated.

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 28th day of June 1985.