

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25834
Docket Number MS-25949

John E. Cloney, Referee

PARTIES TO DISPUTE: (Sean D. Ferris
(
(Consolidated Rail Corporation

STATEMENT OF CLAIM:

"Denial of Seniority concerning the 1982 Roster covering M. O. Lubricator, Page 137 of the Central Region, Pittsburgh Division."

OPINION OF BOARD: Claimant Ferris contends he has been improperly denied "Seniority concerning the 1982 Roster covering M. O. Lubricator..." which he believes should carry forward to a newly established classification of Lubricator-Maintainer.

Carrier contends there had been no Lubricator-Maintainer Roster in the Pittsburgh area prior to February 1982 although work similar to the work of that classification may have been performed. On March 29, 1982 the position of Lubricator-Maintainer was advertised as a "new position" in MW Track Advertisement No. 40.

Claimant bases his claim on his seniority as an M. O. Lubricator which he argues is really the same job. The Carrier contends no one obtains seniority in a classification without bidding on and being awarded a job in that classification. Carrier further notes the Organization did not advance this claim, and is in agreement with its position and therefore no issue subject to the jurisdiction of this Board exists. Claimant points out there is no evidence of such agreement.

This Board notes, in agreement with Claimant that there is no evidence that the Organization is in agreement with the Carrier's position. While the failure of the Organization to advance the claim may be suggestive it certainly is not conclusive on that point.

Thus this Board will consider the claim on its merits. The evidence does not establish that Grievant ever bid on, or was awarded the position of Lubricator-Maintainer. Seniority is a creature of agreement and must be obtained by virtue of the Agreement's provisions. That did not happen here.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

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;

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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 13th day of January 1986.

