

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 28009
Docket No. MS-27168
89-3-86-3-238

The Third Division consisted of the regular members and in addition Referee Robert W. McAllister when award was rendered.

PARTIES TO DISPUTE: (Richard Wheeler
(Consolidated Rail Corporation

STATEMENT OF CLAIM:

"The Petitioner, Richard Wheeler contends that he should have been awarded the position of Structural Welder in Gang #401. The basis for the contention is that Richard Wheeler has seniority over J. R. Schmid who was awarded the position. Petitioner requests retroactive compensation from date of award."

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employes within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute were given due notice of hearing thereon.

This claim arises from the awarding of the position of Structural Welder in Gang 401 to an employee alleged to be junior to Claimant. At the outset, this Board must first answer the objections raised by the Carrier. The Carrier insists this claim, as presented, is not based on any specific citation of an alleged rule violation. Secondly, the Carrier contends the Claimant's submission contains new material and issues not raised on-the-property. The Board finds the Carrier's representation to be entirely factual. The Claimant's submission includes new material and arguments (the Class 11 driver's license argument) which was not part of the handling on-the-property. Such inclusions presented to this Board violate the requirements of Circular No. 1 of this Board. The absence of any rule citation or reference requires this Board to conclude it has no basis upon which it could reach the merits of this claim.

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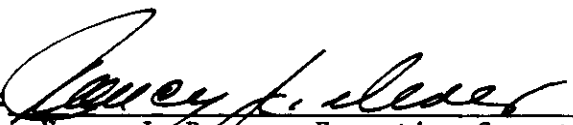
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A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest.


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 31st day of July 1989.