

The Third Division consisted of the regular members and in addition Referee Eckehard Muessig when award was rendered.

PARTIES TO DISPUTE: (Transportation Communications International Union
(The Belt Railway Company of Chicago

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood (GL-10385) that:

1. Carrier violated the effective agreement when it failed to permit Mr. Thomas E. Maher to exercise seniority over a junior employe, thereby denying him the opportunity to demonstrate his fitness and ability for Position #547.

2. Carrier shall now compensate Mr. Maher eight (8) hours' pay at the rate of Position #547, less the amount already paid, for June 13, 1988, and for each and every day thereafter that he is denied the position claimed."

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 waived right of appearance at hearing thereon.

This dispute arose because the Claimant was not permitted to displace a junior employee from the position of Valuation Accountant. The posted qualifications for that position in pertinent part require a "BS with a major in accounting or equivalent training and experience" and a "thorough knowledge and understanding of the theory and principles of accounting, including introductory, intermediate and advance cost accounting and auditing principles."

The record shows that the Claimant was awarded a Bachelor's Degree in Business Administration in 1977. He completed two accounting courses with a grade of D. With respect to his work experience, we agree with the Carrier that it was not of the type necessary to prepare him for the position of Valuation Accountant. The Carrier's determination of fitness and ability, it has long been held, will not be disturbed unless it is shown that such determination was arbitrary or capricious. There has been no such showing in this Claim and it is therefore denied.

Form 1
Page 2

Award No. 28644
Docket No. CL-28859
91-3-89-3-373

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Bever - Executive Secretary

Dated at Chicago, Illinois, this 29th day of January 1991.