

The Third Division consisted of the regular members and in addition Referee Peter R. Meyers when award was rendered.

(W. L. Brown, Jr.

PARTIES TO DISPUTE: (

(Illinois Central Railroad

STATEMENT OF CLAIM:

"A bid I put in for a METRA job in February 1987, before the deadline I revised my bid. My supervisor Moses Richardson took it saying that he would turn it in. He kept it. On 3/6/87 I found out. I called Mr. Vance about what Mr. Richardson had done, he stated nothing can be done.

Then on 4/13/87 I time slip O. Meriweather on BR220 ballast regulator, for 4/11/87 and 4/12/87 overtime. When I told Mr. Horizan local chairman, about the time slip, I was put on the machine to work that day (4/13), by my supervision, at the end of that day Mr. Richardson, said the machine was going to the shop, so I was sent back to my other job. I have more seniority on B operator than Mr. Meriweather. Mr. Richardson over looked me for the weekend job of 4/11 and 4/12. On 5/11/87 METRA was requested to paid me for the time slip."

FINDINGS:

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

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employees 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.

Claimant was employed as a machine operator.

The issue in this case is whether or not the Carrier violated the parties' Agreement in regards to the Claimant's seniority rights when it assigned employee O. Meriweather to operate a Group C BR-220, Metra-owned ballast regulator in the vicinity of 91st Street, Chicago, Illinois, on the Carrier's mainline on April 11 and 12, 1987, instead of assigning that job to the Claimant.

The Claimant contends that the Carrier erred in assigning the operation of the ballast regulator to O. Meriweather on the dates in question because Meriweather was a junior employee in relation to the Claimant. The Claimant maintains that he held the rights to operate the ballast regulator and was qualified to do so.

The Carrier contends that the Claimant was working in a Group B position and assigned to a burro crane, while Meriweather was working in a Group C position assigned to no particular machine. The Carrier maintains that the machine in question, a ballast regulator, was a Group C machine and was properly operated by Meriweather, who the Carrier contends held bid-in rights on the machine and was entitled to the overtime. The Carrier also contends that the Claimant had not been trained on the machine in question before the claim date; therefore, he could not possibly have been called in for the overtime. The Claimant did not "break in" on the operation of the BR-220 ballast regulator until April 13, 1987, and he is claiming overtime for April 11 and 12, 1987.

The parties being unable to resolve the issues, this matter came before this Board.


This Board has ruled on numerous occasions in the past that the Carrier must be the judge of the ability of an employee to perform a certain job. There has been no proof that the Claimant was qualified to operate the particular equipment for which he is making the claim for two days' pay. Since the burden has not been met, the claim must be denied.

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 28th day of February 1992.