

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 31093
Docket No. SG-30991
95-3-92-3-841

The Third Division consisted of the regular members and in addition Referee Martin F. Scheinman when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(National Railroad Passenger Corporation
((AMTRAK)

STATEMENT OF CLAIM:

"Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen (BRS) on the National Railroad Passenger Corporation (Amtrak (N)):

Claim on behalf of all BRS represented employees on the Northern Seniority District to require Carrier to rescind order establishing additional qualification test, account Carrier violated the current Signalmen's Agreement, particularly Agreement Letter No. 5 (August 12, 1982), when it unilaterally imposed an additional test regarding physical characteristics, effective April 15, 1991. Carrier's File No. NEC-BRS(N)-SD-558. General Chairman's File No. 65-91. BRS File Case No. 8729-Amtrak(N)."

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 employee 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.

In this claim, the Organization contends that Carrier violated Agreement Letter No. 5 when it unilaterally imposed a new qualification requirement concerning physical characteristics for Signal Maintainers, Supervisors and Foremen. It asserts that although the Carrier has certain discretion in establishing

qualifications for certain positions, this is limited by the requirement that the qualifications be reasonably related to the work of the position.

The Organization insists that matters regarding qualifications are subject to negotiation and cannot be unilaterally changed by the Carrier. Accordingly, and for the foregoing reasons, the Organization asks that the claim be sustained.

The Carrier argues that it did not violate the Agreement. It maintains that it has the inherent managerial right to establish qualifications for positions and direct its employees to attend training in connection with those qualifications.

The Carrier submits that it determined that for the safety of its employees and the traveling public, certain employees in the Communications and Signals Department must qualify on the physical characteristics of their applicable territories. In its view, there is no provision in Letter No. 5 which would preclude the Carrier from requiring its employees to become qualified on the physical characteristics of their territory.

Accordingly, for these reasons, the Carrier asks that the claim be denied.

After a review of the record evidence, we conclude that the claim must be denied. The Carrier has the right to test performance and qualifications for employees in their job duties. However, before the implementation of the new policy, the Carrier should have consulted with the General Chairman as to the substance of the test. Therefore, the Board suggests that the Carrier consult with the General Chairman about the substance of the policy. This is not intended to suggest that the Carrier is obligated to negotiate or bargain with the General Chairman on this issue.

Accordingly, and for the foregoing reasons, the claim is denied.

AWARD

Claim denied.

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ORDER

This Board, after consideration of the dispute identified above, hereby orders that an Award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 1st day of September 1995.