

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 31113
Docket No. CL-31535
95-3-93-3-671

The Third Division consisted of the regular members and in addition Referee Elizabeth C. Wesman when award was rendered.

(Transportation Communications
(International Union
PARTIES TO DISPUTE: (
(Providence and Worcester Railroad Company

STATEMENT OF CLAIM: "Claim of the System Committee of the
TCU (PW-006) that:

- I. I, Gregory R. Naughton, do hereby desire to file the following claim for your consideration and decision. The nature of this claim is that the Providence and Worcester Railroad failed to employ a more senior person on a position.

On November 5, 1991, Linda Rafferty was placed on the Accounts Payable/Clerk Car Hire Clerks position. This originally posted as a temporary position for all to bid on. This position was awarded to Mrs. Beverly Lamoureux on a temporary bid. When Beverly Lamoureux bid on another full time position, this position (Accounts Payable Clerk/Car Hire Clerk) was instead awarded to Linda Rafferty. This is in direct violation of our collective bargaining agreement. Since I am the senior most furloughed person, I should have been awarded this position. Since this awarding was not done according to our contract, I am filing this grievance with you, my last supervisor, and do hereby request a full day's pay for every day she works this position. Linda started working on November 5, 1991.

- II. I, Gregory R. Naughton, do hereby desire to file the following claim for your consideration and decision. The nature of this claim is that the Providence and Worcester Railroad failed to employ a more senior person on a position.

On September 30, 1991, Linda Rafferty was placed on the Switch-board/General Office Clerk position. This position was never posted. Linda was assigned to this position. This is in direct opposition to our collective bargaining agreement. Since I am the senior most furloughed person, I should have been awarded this position. Since this was not done according to our contract, I am filing this grievance with you, my last supervisor and do hereby request a full day's pay for every day she works this position. Linda started working on September 30, 1991, and ended this position on November 4, 1991."

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.

This is a companion case to Third Division Award 31111. In this case however, Claimant has not offered any evidence to contradict Carrier's assessment that he was not qualified to fill either of the positions at issue. For reasons set forth at length in our previous Award, the Board finds no basis for sustaining this claim.

AWARD

Claim denied.

Form 1
Page 3

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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.