

NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISIONAward No. 31246  
Docket No. SG-31349  
95-3-93-3-62

The Third Division consisted of the regular members and in addition Referee Gerald E. Wallin when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen  
(  
(Union Pacific Railroad Company

STATEMENT OF CLAIM:

"Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Union Pacific Railroad Company:

Claim on behalf of W.V. Stewart for assignment of a Class 1 seniority date of March 1, 1988 and a rank on the seniority roster ahead of F.P. Figueroa, account Carrier violated the current Signalmen's Agreement, particularly Rule 38 and Appendix 10, when it failed to advertise the Class 1 position awarded Mr. Figueroa and denied the Claimant the opportunity to establish seniority on the position."

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.

With one noteworthy exception, the record developed on the property consists of assertion and counter-assertion. The assertions made in the Organization's Claim and later appeals were all denied by the Carrier.

In addition, Carrier wrote to the General Chairman on September 3, 1991 as follows:

"... Furthermore, you and I agreed in May of 1990 to allow Mr. Figueroa a seniority date of March 1, 1988 as a Signaller on Roster 8136 and, further, that he would not be allowed to establish an Assistant Signaller date. You and Nancy Janousek, NPS Specialist also discussed this issue and other roster corrections and the assignment of a March 1, 1988 date for Mr. Figueroa to Roster 8136 was confirmed in your letter of July 10, 1991 (copy attached). ... You were aware of the situation and, in fact, agreed to the date given to Mr. Figueroa. Any protests should have been handled during our seniority protest meeting."

The attached copy of the General Chairman's letter written to Ms. N. Janousek, dated July 10, 1991, explicitly agrees to a March 1, 1988 seniority date for Mr. Figueroa on Roster #8136. Moreover, the Organization did not challenge the Carrier's evidence or assertions that Figueroa's seniority date was established by agreement.

In matters of this nature, it is well established that the Organization bears the burden of proving each of the requisite elements of its Claim. On this record, the Organization has not done so. Therefore, the Claim must be denied.

AWARD

Claim denied.

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 November 1995.