

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 31580
Docket No. CL-32382
96-3-95-3-234

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

PARTIES TO DISPUTE: (Transportation Communications International Union
(National Railroad Passenger Corporation (AMTRAK))

STATEMENT OF CLAIM:

"Claim of the System Committee of the Organization (GL-11142) that:

The following claim is hereby presented to the Company in behalf of Claimant M. West.

- (a) The Carrier violated the Clerks' Rules Agreement effective July 21, 1972, as revised, particularly Rules 5, 6, 8, 7, 14 and other Rules, when, by memorandum dated May 27, 1993, they refused Claimant West's request to be allowed to attend Company sponsored 'Lotus Training Classes' being given on June 1 & 2, 1993 and allowed other clerical employees, both junior and senior, to attend this and previous Lotus Training Classes offered.
- (b) Claimant's request was based on his desire to expand his knowledge and abilities, which in turn would allow him better access to a wider variety of positions with the Carrier and would be consistent with the reasons that the other clerical employees requested this training and why the Carrier allowed them access to same.
- © Claimant be allowed eight (8) hours punitive pay, based on the appropriate pro rata rate of his regular position, commencing June 1, 1993 and continuing for each and every day thereonafter, due to this violation.
- (d) In order to terminate this claim, Claimant West must be afforded the 'Lotus Training' in the same manner that any other employee has been offered this training.
- (e) This claim has been presented in accordance with Rule 25 and should be allowed."

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.

On June 1 and 2, 1993, Carrier conducted two-day "Lotus Software Training" sessions for certain of its personnel, soliciting enrollment through the use of a Computer Training Enrollment Request form. That document listed several dozen available courses, provided signature blanks for "Supervisor Approval" and "Department Head" approval, and read in pertinent part:

"Consult your supervisor before completing this form. Please indicate those classes you wish to enroll in. Some courses may not be available at your location.... Every effort will be made to enroll you into the next available class date."

The Organization contends that in denying the Claimant's request for training while at the same time honoring requests for other employees - including junior employees - the Carrier violated the rules governing PROMOTION, ASSIGNMENTS & DISPLACEMENTS, BULLETIN & ASSIGNMENT, SHORT VACANCIES, FAILURE TO QUALIFY, and OVERTIME. Additionally, the Organization argues that the Carrier's mode of posting these training opportunities was ambiguous, if not deceptive, in that the announcement appeared to assure interested personnel that "every effort" would be made to honor their requests. The Organization implies that in the absence of express standards, qualifications or requirements for eligibility, the Claimant was justified in concluding that he would be afforded the classes requested—particularly when less senior employees at his location were accepted for the classes they requested. Lastly, the Organization maintains that the Claimant was deprived of an opportunity to advance as a direct result of the Carrier's actions in that he was subsequently rejected for a higher paying position that listed "Lotus ... desirable" among its required qualifications.

Carrier denied these claims on several grounds. First, the rules cited by the Claimant are, in Carrier's view, not applicable. Rather, the governing rule is Rule 32, TRAINING, which the Carrier asserts entitles it to determine "when, where and how often employees need training and retraining." That Rule provides in part:

"When employees require additional training to remain qualified for positions to which currently assigned, they may be assigned to classroom or on-the-job training at such times and places as necessary...."

Carrier further contends that not only was it not contractually obligated to offer the Claimant training, but to do so would have been fiscally irresponsible in view of the fact that knowledge of Lotus was not a requirement of his position. Carrier emphasizes that his department did not, in fact, even possess a computer at the time the training was offered. Although a determination was made by the Carrier to train the Lead position in order to provide for the sharing of his knowledge within the department as necessary, Carrier points out that the Claimant, if he desired, could have enrolled in the Carrier's Educational Assistance Program and been reimbursed for this training. Finally, Carrier asserts that the Organization has presented no evidence to show that the Claimant met the requirements for the higher paying position in question, nor made any showing that he suffered monetary loss as a result of the Carrier's actions.

Based upon our review of this record and of the applicable rules, this Board finds no contract violation in this case. Rule 7 provided clearly that the Carrier was entitled to decide both when and what training was necessary. The limitations of that Rule go only to the extent of the pay obligations attaching to various types of training. Rule 7 plainly justified the Carrier's selection of trainees of its choosing, and, accordingly, warranted its denial of Claimant's request for training. While the Carrier's bulletin announcing the availability of certain courses may not have fully apprised the reader of the standards that would apply in the selection process, that deficiency cannot logically be read to impose upon the employer a broad obligation to afford training to all applicants without regard to the express terms of the Agreement, operational needs, cost or other factors. Passing without comment the question of whether such an announcement can ever override the terms of the Collective Bargaining Agreement, when the bulletin here is read in its entirety, it seems reasonably obvious to this Board that the employees selected for training would be those approved by the appropriate Carrier management, and that the Organization's theory of Carrier estoppel based upon the omission of standards in the bulletin is misplaced. In sum, the rules allow the Carrier to determine its training needs. In the absence of contract language mandating the required training, this conclusion, in our opinion, is consistent with the better

authority in this industry. See, e.g., Second Division Award 7415 ("...there is no language in the Agreement before us which requires that Claimant be given training for any specific length of time, nor is there any mention of the quality of training employees are to receive.")

Based upon the foregoing, we must deny the claim.

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 29th day of August 1996.