

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 32339
Docket No. MW-32037
97-3-94-3-407

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

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(Chicago Central and Pacific Railroad Company)

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The Carrier violated the Agreement when it posted Bulletin No. 77, dated June 3, 1993, listing an improper requirement and assigning two (2) headquarters points for the position advertised.
- (2) As a consequence of the violation referred to in Part (1) above, the Carrier shall “***cancel Bulletin #77 and rebulletin same as a Mobile 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 were given due notice of hearing thereon.

This dispute involves Carrier's posting of Bulletin No. 77 on June 3, 1993 for a "seasonal" Bridgeman to perform work on Monday - Thursday at Waterloo, Iowa, and on Sunday at the D&D Bridge at Dubuque, Iowa. The posting stated that the applicant was required to "be qualified on the MofW Book of Rules and Safety Rules and to be qualified on the operation of the Bridge."

By its June 13, 1993 claim, the Organization protests the fact that Carrier had added a pre-qualification to the position in violation of Rule 16(b) which it alleges provides for a training period of between five and 30 days after selection for the successful applicant to qualify for the position. The Organization also protests the listing of two locations on the posting as a violation of Rules 17(a) and 18(b) which designate a location in the singular, and argues that the headquarters of the position should have been listed as "mobile" as it has been in the past.

Carrier argues that Rule 16(a) gives it the ability to determine fitness and ability at the time of application, noting that the knowledge of Rules and bridge operation relates to the minimum qualifications for the job, which it may assess. It notes that the period to determine whether a successful applicant is proficient on the job contained in Rule 16(b) does not negate its right to advertise reasonable job qualifications, as in this case. Carrier contends that Rule 6(c)(2) applies in this case because all applicants understood this to be a relief position, although that was not clearly stated on the bulletin. Carrier argues that such Rule permits it to include different work locations on different days for a regular relief assignment. It presented evidence that this position fell within that category, which the Organization disputed.

The arguments made in this case are identical to those made by the parties in two prior cases on this property. Under similar circumstances, the Board decided in Third Division Award 32186 that Rule 6(c)(2) permitted Carrier to advertise dual headquarters for regular relief assignments, rejecting the Organization's Rule 17(a) and 18(b) arguments. We find that the Organization failed to sustain its burden of proving that the position advertised in Bulletin No. 77 was not such an assignment.

In Third Division Award 32189 the Board, in dealing with the same qualification requirement listed on a different Bridgeman's bulletin, rejected the Organization's contention that Rule 16(b) required Carrier to "promote an employee who lacks basic fitness and ability solely on the basis of seniority and thereafter train those who lack minimum fitness and ability." It found no language in the Agreement or evidence of past

practice requiring Carrier to promote an employee with no knowledge of bridge operation to a Bridgeman position.

A careful review of these Awards convinces us that they are not palpably erroneous. In line with the record in this case, we adopt the Board's rationales contained in Third Division Awards 32186 and 32189 as applicable herein and similarly deny this 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 13th day of November 1997.