

Award No. 15213

Docket No. SG-13338

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

David L. Kabaker, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

**THE NEW YORK CENTRAL RAILROAD, NEW YORK AND
EASTERN DISTRICTS
(Except Boston and Albany Division)**

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the New York Central Railroad (Buffalo and East) that:

(a) The Carrier violated the current Signalmen's Agreement, as amended, particularly Rule 14(b), when it assigned Mr. T. J. Lynch to position "D" Signal Mechanic on Notice of Award dated April 18, 1960, even though Mr. N. J. Dottino bid for this position and had more seniority than Mr. Lynch.

(b) The Carrier now be required to compensate Mr. Dottino the difference between a first step Assistant Signal Maintainer and a Signal Mechanic, commencing April 18, 1960, and continuing until such time as he is placed on this or another Signal Mechanic position.

(c) The Carrier also be required to place Mr. Dottino's name on the seniority roster as a Signal Mechanic effective April 18, 1960, to be ranked immediately before Mr. Lynch.

[Carrier's File: 114-B (SG61.3)]

EMPLOYEES' STATEMENT OF FACTS: This dispute is a result of the Carrier's failure to award a Signal Mechanic position to the highest bidder.

On April 12, 1960, the Carrier issued Bid Bulletin No. 8, which has been reproduced, attached hereto and identified as Brotherhood's Exhibit No. 1. Position D thereon is the position in question. The Notice of Awards, dated April 18, 1960, is Brotherhood's Exhibit No. 2, and it shows that the position in question was awarded to T. J. Lynch.

Upon receipt of the Notice of Awards, the Brotherhood's Local Chairman advised the Signal Supervisor that he had received a duplicate bid on position D from Mr. N. J. Dottino, and requested that Mr. Dottino be awarded the posi-

Carrier has shown in its Principal Point No. 1 that Claimant Dottino was admittedly unable to fulfill the requirements of the Signal Mechanic position in Gang A-1 and Carrier's refusal to assign him to the position was therefore not in violation of Section 14(b). The contention and interpretation of the Organization is without basis. There is no section in the Agreement that requires Carrier to assign an employee to a higher class position on which he could not function.

(Exhibits not reproduced.)

OPINION OF BOARD: The record discloses that Claimant was an Assistant Signal Maintainer in his first period of training and thereafter applied for Signalman position.

Carrier determined that Claimant was not qualified and awarded position to another employee.

The Board finds under the facts and circumstances in this case that Carrier was not arbitrary or capricious in its determination that Claimant was not qualified for a position of Signalman. We do not interpret Rule 14(b) as requiring a three (3) month trial period where Carrier has previously determined that the employee was not qualified.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds;

That the parties waived oral hearing;

That the Carrier and the Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Agreement was not violated.

AWARD

Claim denied.

**NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION**

**ATTEST: S. H. Schulty
Executive Secretary**

Dated at Chicago, Illinois, this 30th day of January 1967.