

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19328
Docket Number CL-19489

Joseph E. Cole, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station Employees
(
(Southern Railway Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6992) that:

(a) Carrier violated the Agreement at Macon, Georgia, when it refused to assign Mr. O. F. Morgan to the position of Truck Driver, advertised by Vacancy Bulletin No. 1, dated September 4, 1968, and advised him that they could no longer use him as a Relief Truck Driver.

(b) Mr. Morgan shall be compensated for all time lost beginning August 2, 1968, and continuing until he is assigned to the position of Truck Driver.

OPINION OF BOARD: 1. Claimant was a temporary employee within the meaning of the rules and he was on no seniority roster.

2. Claimant did have impaired vision being effectively blind in one eye.

3. Claimant was relieved from duty for physical disability and not as a disciplinary matter.

4. The fact of the disability is not in dispute in the record. The fact that the claimant had not had any difficulty for 18 months is perhaps fortuitous.

5. The carrier has a duty to the employees and the stockholders to do everything in its power to prevent or reduce accidents.

6. When the carrier, perhaps belatedly, found out that the Claimant had a physical disability that would render his performance of duties perhaps dangerous, the carrier had the right, and the duty, to correct the matter by removing the claimant from service.

7. We find that the absence of sight of one eye is adequate grounds to not allow a person to drive the carrier's trucks.

8. The Claimant had no absolute right to bid in the job, in the absence of physical requirements. The agreement is binding, regardless of the policy of the company. They may, but they do not have to and are not required to, allow such bidding.

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FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

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.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:


Executive Secretary

Dated at Chicago, Illinois, this 14th day of July 1972.