

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19848
Docket Number CL-19998

Burl E. Hays, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station Employees
(The Central Railroad Company of New Jersey
((R.D. Timpany, Trustee)

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-7261)
that:

(a) Carrier violated the Clerks' Agreement, with specific reference to Rule No. 3, and an Agreement between Management and the Organization that the Tractor Drivers be given preferential treatment in the awarding of the five (5) Operator's jobs at Portside Terminal, and

(b) Carrier shall be required to compensate Mr. A. Evans and Mr. H. Elbeck retroactive pay as Operators sixty (60) days prior to the date of this claim, and

(c) This claim shall continue in force until violation is corrected.

OPINION OF BOARD: On January 28, 1972 a Letter Agreement was entered into by the parties covering the relocation of Carrier's piggy-back facility at Elizabethport, New Jersey. The Letter Agreement specifically provided that the seven previously established tractor driver positions at the Elizabethport facility, which were covered by all the rules of the Clerk's Agreement, would be reduced to five piggypacker machine operator driver's positions.

The five new positions would be excepted positions -- designated "A" positions, and would not be subject to Rules 3 and 6 of the schedule Agreement.

"A" positions are exempt from the Promotion, Assignment and Displacement rules of the Agreement, and the Carrier has license to appoint individuals to the position without regard to seniority.

This claim arose when individuals junior to the two Claimants were appointed to two of the five positions.

Inasmuch as the Record is clear that the positions in question were exempt from the Promotion, Assignment and Displacement rules, we fail to see how the Carrier could violate these rules when they appointed junior applicants to the positions. The Claim will be denied.

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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

The Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A.W. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 13th day of July 1973.