

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20700
Docket Number MW-20687

Francis X. Quinn, Referee

PARTIES TO DISPUTE: ((Brotherhood of Maintenance of Way Employes
(The Akron, Canton & Youngstown Railroad Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

(1) The Carrier violated the Agreement when it assigned Track Foreman E. Picklesimer instead of B&B Carpenter F. E. Newman to relieve B&B Foreman E. J. Cole from August 7, 1972 through September 1, 1972.

(2) The Carrier shall now pay to Claimant F. E. Newman the difference between the B&B foreman's rate and the B&B Carpenter's rate for all time worked by Track Foreman E. Picklesimer as a B&B foreman from August 7, 1972 through September 1, 1972.

OPINION OF BOARD: The work performed was that of installing switch plates beneath the rail and securing them to the lateral girders of the bridge to allow safe passage of trains. The claimant admitted he could not supervise this type of work. The employee used to supervise this work was a qualified foreman, senior in service, with experience in the work scope.

This Board has long recognized that the determination of fitness and ability is a prerogative of management and that such a determination will be sustained unless it appears that the action was arbitrary or capricious. There is no evidence that the Carrier's action was discriminatory. Accordingly, the claim must be denied.

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

Award Number 20700
Docket Number MW-20687

Page 2

That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A.W. Paulson
Executive Secretary

Dated at Chicago, Illinois, this 17th day of April 1975.