

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22443
Docket Number CL-22311

Joseph A. Sickles, Referee

PARTIES TO DISPUTE:

{ Brotherhood of Railway, Airline and
{ Steamship Clerks, Freight Handlers,
{ Express and Station Employees
{ Chicago, Milwaukee, St. Paul and Pacific
{ Railroad Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(GL-8468) that:

1) Carrier violated the Clerks' Rules Agreement at Chicago, Illinois in Seniority District No. 152 on June 30, 1976 when it unjustly treated employee J. G. Kahn by failing to award him Revising Clerk-Grade A Position 89360 and in lieu thereof awarded the position to a junior employee.

2) Carrier shall now be required to promptly assign employee J. G. Kahn to Revising Clerk-Grade A Position 89360.

3) Carrier shall be further required to compensate employee J. G. Kahn an additional eight (8) hours at the pro rata rate of Position 89360 for June 30, 1976 and each subsequent workday until the violation is corrected.

4) Carrier shall now be required to pay seven percent (7%) interest compounded annually on such rate until such time as claimant is made whole.

OPINION OF BOARD: Claimant submitted a bid for Advertised Vacancy 89360; which was awarded to a junior employee.

Subsequent to an "unjust treatment" investigation, Carrier reaffirmed its conclusion that Claimant lacked sufficient "fitness and ability" which prompted this claim.

Rules 7 and 8 provide:

"RULE 7 - PROMOTION

Employees covered by these rules shall be in line for promotion. Promotion shall be based on seniority, fitness and ability; fitness and ability being sufficient, seniority shall prevail.

NOTE: The word 'Sufficient' is intended to more clearly establish the right of the senior employee to the new position or vacancy where two or more employees have adequate fitness and ability."

"RULE 8 - TIME IN WHICH TO QUALIFY

(a) When an employee bids for and is assigned to a permanent vacancy or new position he will be allowed thirty (30) working days in which to qualify and will be given full cooperation of department heads and others in his efforts to do so. However, this will not prohibit an employee from being removed prior to thirty (30) working days when manifestly incompetent. If an employee fails to qualify he shall retain all seniority rights but cannot displace a regularly assigned employee. He will be considered furloughed as of date of disqualification and if he desires to protect his seniority rights he must comply with the provisions of Rule 12(b)."

The main thrust of the Claimant's case seems to center around his assertion that he performed certain "training" concerning equivalent positions; but a thorough review of the record leads us to conclude that his "training" was certainly not representative of all of the functions of the position. We find no basis for sustaining this claim. See our recent Award No. 22442.

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;

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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:

A. W. Paulos
Executive Secretary

Dated at Chicago, Illinois, this 29th day of June 1979.