

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23146
Docket Number MS-22937

Robert A. Franden, Referee

PARTIES TO DISPUTE: (Keith S. Seekon
(
(Soo Line Railroad Company

STATEMENT OF CLAIM: Claim of Keith S. Seekon:

(1) Carrier violated the effective Agreement, specifically Rules 3, 6, 7, 13, 15 and 16 when it refused to assign Claimant to a vacant Trucker-Janitor position and, instead, filled the position with a new employee.

(2) Carrier shall now be required to assign Claimant a dating of April 17, 1978 in District No. 19, senior to the new employee hired on that date.

(3) Carrier shall now be required to compensate Claimant for five hours pay, at the time and one-half rate, for each and every working day from April 17, 1978 thru May 3, 1978; for eight hours pay, at the time and one-half rate, for each and every working day from May 4, 1978 thru September 13, 1978; such compensation to be in addition to any compensation received by Claimant on those dates.

OPINION OF BOARD: The facts giving rise to this claim as expressed by Petitioner, Keith S. Seekon, and the Carrier, appear to be generally in accord. Claimant, holding seniority in District No. 32, bid on a vacant position in Seniority District No. 19. Claimant's bid was received after the closing of the bulletin. Claimant was advised that his bid was received too late and he was not assigned to the vacancy. Claimant does not dispute that his bid was late. He postulates a number of excuses and suggested exceptions which he argues require his assignment to the position sought, establishment of a seniority date in Seniority District No. 19 and payment of penalty compensation. We find no merit to the claim. Claimant's application for the position was clearly out of time. This untimeliness is fatal. It makes the application, in fact, no application and events that transpired subsequent to the closing of the bulletin, under the parties' agreement, really have no bearing on the matter.

We will deny the claim.

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 Employes involved in this dispute are respectively Carrier and Employes 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 30th day of January 1981.

