

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23147
Docket Number MS-22983

Robert A. Franden, Referee

PARTIES TO DISPUTE: (Barbara C. Robinson
(
(Soo Line Railroad Company

STATEMENT OF CLAIM: Claim of Barbara C. Robinson that:

(1) Carrier violated Rules 3, 13, 15, 16 and 17(a) of the SOO-BRAC Clerks' Agreement by assigning a Steno-Clerk position in Seniority District No. 22 to a new employee, even though applications were received from Claimant and two other regular employees.

(2) Carrier shall now be required to assign Claimant a seniority dating of May 21, 1978, one day prior to the seniority dating improperly assigned to the new employee.

(3) Carrier shall be further required to compensate Claimant for eight (8) hours compensation, at the pro rata rate of the position, from May 22, 1978, through February 21, 1979, the date Claimant was assigned another Steno-Clerk position in Seniority District No. 22. If Claimant is displaced from this position in the future by an employee with a seniority dating after May 21, 1978, similar compensation is claimed from the date of that displacement until the violation ceases.

OPINION OF BOARD: Claimant, holding seniority in District Nos. 3 and 16, bid on a vacant position in Seniority District No. 22. Claimant was not assigned to the vacancy; the position was filled by an employee holding seniority in District No. 22. Claimant has postulated a number of theories which she feels entitles her to assignment to the position sought, establishment of a seniority date in Seniority District No. 22 and payment of penalty compensation. We find these to be without merit. Claimant's application for the vacancy in District No. 22 clearly could not be considered so long as there was a valid application from an employee holding seniority within District No. 22. Secondly, if there were no valid applications from employees holding seniority in District No. 22, Claimant's application would have to be considered on a seniority basis from among applicants from other districts. (See Award 22869, Referee Eischen.) In addition to Claimant's application, additional applications were received, one at least, from an employee with more seniority than Claimant.

We will deny the claim.

FINDINGS: This 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

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. Paulra
Executive Secretary

Dated at Chicago, Illinois, this 30th day of January 1981.

