

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23604

Docket Number CL-23697

Joseph A. Sickles, Referee

PARTIES TO DISPUTE:

(Brotherhood of Railway, Airline and Steamship Clerks,
{ Freight Handlers, Express and Station Employees
{ Southern Pacific Transportation Company (Pacific Lines)

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-9261) that:

(a) The Southern Pacific Transportation Company violated the current Clerks' Agreement, particularly Rules 24, 27, 36 and 50 thereof, when it disqualified employe D. W. Craig from Position 811, Maintenance of Way Clerk, upheld the disqualification following investigation, and then failed to make a decision within sixty (60) days respecting claim filed by Mr. Craig; and,

(b) The Southern Pacific Transportation Company shall now be required to allow Mr. Craig eight (8) hours' compensation at the rate of Position No. 811 beginning August 13, 1978 and continuing each date thereafter until he is restored thereto.

OPINION OF BOARD: The Employee displaced on Position No. 811, and after 9 days of training upon the position he was disqualified. He requested an investigation, which resulted in a sustaining of the disqualification because the Employee "had not demonstrated the ability to qualify for Position No. 811."

Also involved in this dispute is the assertion that the Carrier did not take certain required action within the prescribed sixty (60) day period and the question of when the period started in this particular case.

We have reviewed the record extensively in that regard, and we are inclined to rule that the Board will not base its decision on that procedural issue in this case, because we have difficulty with a full comprehension of the contentions of either side, and inasmuch as there is not enough detail in the record for us to comfortably rest the case on the procedural issue, we will make our determination based upon the merits of the case.

Concerning the disqualification itself, we feel that the Employee did receive adequate time to demonstrate his fitness and ability for the position, and we find nothing of record to indicate that the Carrier's action of disqualification was inappropriate in this case.

Concerning the indication that the fact that the Employee may have pursued the question of qualification on a prior instance is not truly material to this dispute. Surely, the fact that an employee was properly disqualified at one time does not automatically foreclose him from bidding and being awarded the position in the future, because each new case must rest upon its own

individual fact circumstances and the qualifications for a position must be reviewed separately in each attempt to obtain a position.

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

That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: Acting Executive Secretary
National Railroad Adjustment Board

By Rosemarie Brasch
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 10th day of March 1982.

