

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award Number 24403
Docket Number MS-24858

PARTIES TO DISPUTE: (S. K. Anderson
(
(The Denver and Rio Grande Western Railroad Company

STATEMENT OF CLAIM: ".....ascertaining the proper procedures for the assignment of seniority related position....."

OPINION OF BOARD: Petitioner S. K. Anderson was employed by Carrier as a Bridge and Building Carpenter with seniority in that class dating July 25, 1978. The regularly assigned foreman of petitioner's gang took his vacation June 15, 1981 through June 19, 1981. A Bridge and Building Carpenter with seniority date of July 25, 1978 was assigned to and worked as relief Foreman of the gang during the five-day vacation vacancy. Petitioner contends, on basis of overall seniority, he should have been assigned the vacancy. Carrier denied the claim asserting petitioner lacked fitness and ability to fulfill the duties of foreman.

The record in the case before us is barren of evidence that would support a finding that petitioner possessed the indispensable fitness and ability. Accordingly, petitioner has failed to sustain the burden of showing by substantial evidence that he possessed the requisite fitness and ability or that the decision of the Carrier was arbitrary or capricious, and the claim is 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 Employee involved in this dispute are respectively Carrier and Employee within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board had jurisdiction over the dispute involved herein; and

That the Agreement was not violated.

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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, Administrative Assistant

Dated at Chicago, Illinois, this 26th day of May 1983.

