

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25880
Docket Number MW-25464

Lamont E. Stallworth, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(Northeast Illinois Railroad Corporation
((former Chicago, Rock Island & Pacific Railroad Company)

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood that:

(1) The Agreement was violated when Speed Swing Model 441-B headquartered at Blue Island, Illinois advertised by Bulletin No. 72 was awarded to Group 14 Machine Operator D. Hickerson (System File NIRCRC-P-718).

(2) Group 13 Machine Operator John Teufel shall be compensated for all wage loss suffered from August 26, 1982 and continuous thereafter until such time as he is properly assigned to Speed Swing 441-B located at Blue Island, Illinois."

OPINION OF BOARD: The basic dispute arose when a Speed Swing machine was destroyed in an accident. The machine in question had been operated by an employee holding Group 13 Seniority. A temporary replacement machine was utilized and operated by an employee holding Group 14 seniority. Subsequently, a new machine was purchased, the position was bid, and the work was assigned to the senior qualified and bidding Group 14 employee. The senior qualified and bidding Group 13 employee was not awarded the position and filed the instant claim.

The Organization contends that historically and customarily the Carrier had utilized two different types of Speed Swing machines, one of which type (the relatively light weight 441 model) was assigned to Group 13 and one (the relatively heavier weight 442 model) to Group 14. The language of the agreement makes no model distinction. The Carrier contends that the new 441-B model is a more sophisticated and advanced machine, different from the previously owned model, and never before used on the property.

The Rules Agreement language on group machine jurisdiction is very specific in some instances. For example, it notes that: Group 13 jurisdiction covers "Track Crane Operators (less than 7 1/2 tons)"; and that Group 14 jurisdiction covers "Track Crane Operators (7 1/2 tons or more)." In the case of "Speed Swing Operators", however, there is no such distinction made, and the position is listed under both Group 13 and 14.

Absent such a restriction, or proof of systemwide custom and practice, the Board concludes that the Carrier was free to assign the machine to the jurisdiction of either group without violating the Agreement.

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.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 30th day of January 1986.