

The Third Division consisted of the regular members and in addition Referee Dana E. Eischen when award was rendered.

PARTIES TO DISPUTE: (Patricia C. Wilkins  
(  
(National Railroad Passenger Corporation (Amtrak)

STATEMENT OF CLAIM:

1. Whether under Exhibit A, Letter No. 11 of the Agreement between Amtrak and the Brotherhood of Railroad Signalmen, (dated 8-12-82), Stanley Green and properly awarded the position of Electronic Technician Communications on May 27, 1986, instead of Patricia C. Wilkins.

2. Whether Mr. Green under Section D of Exhibit A was knowledgeable in electronic theory and possessed the requisite capabilities of successfully completing a training course based on past work experience and individual qualifications.

3. Whether Patricia C. Wilkins was knowledgeable in electronic theory and possessed the requisite capabilities of successfully completing a training course based on past work experience and individual qualifications.

4. Whether Mr. Green should be paid at the Electronic Technician Communications rate without having any training or Amtrak Communications experience in accordance with Section E of Exhibit A.

5. Whether, in this case, ability and fitness prevails over seniority as set forth in Article 4, Section 18, Paragraph A, of the Brotherhood of Railroad Signalmen's Blue Book.

6. Whether the Electronic Technician Communications position advertisement (Bulletin #2223) accurately sets forth the contractual prerequisites for the Electronic Technician Communications position, for which Mr. Green was selected; and if so, whether Mr. Green was properly selected or whether Patricia C. Wilkins should have been selected.

7. Whether Patricia C. Wilkins should be placed in the Electronic Technician Communications position and whether she should receive back pay from the date Mr. Green was promoted to the Electronic Technician Communications position."

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employees within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

In this case Claimant filed an individual appeal of Carrier's award of a posted position of Electronics Technician Communications to a senior bidder. In addition to asserting her own fitness and qualifications, Claimant maintained that the senior bidder who was awarded the position lacked the requisite fitness and ability to warrant invocation of his seniority under Article 4, Section 18(a) of the Amtrak/BRS Agreement.

"Section 18

(a) Assignments to positions in the leading maintainer, leading signalman, signal maintainer, T. & S. maintainer, telegraph and telephone maintainer, signalman, assistant signalman or helper classes shall be based on ability, fitness and seniority; ability and fitness being sufficient, seniority shall govern."

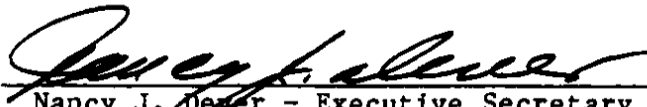
Claimant seeks retroactive placement in the position of ETC together with a monetary award of differential earnings.

There is no factual support for this Claim in the record before us. Claimant was the junior of the four (4) bidders for the new position in May 1986, none of whom ever had worked as an ETC. Previously Claimant had taken a qualification test for this position in March, 1986, and achieved a 76 percent score. The senior bidder failed the test in May, 1986, but the next most senior bidder, S. Green, achieved a score of 83 percent. After reviewing relative test scores, background and experience, Carrier awarded the position to S. Green as the most senior qualified bidder who demonstrated sufficient fitness and ability for training in the position. Claimant may be commended for her desire to get ahead and she evidently possessed sufficient fitness and ability for the position if she had been the only applicant. But the senior bidder also possessed the requisite fitness and ability. This entitled him to the position even if, arguendo, Claimant was correct in her assertion that she was "more qualified."

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:   
Nancy J. Dwyer - Executive Secretary

Dated at Chicago, Illinois, this 4th day of December 1989.