

The Third Division consisted of the regular members and in addition Referee Edwin H. Benn when award was rendered.

PARTIES TO DISPUTE: (Transportation Communications International Union
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(The Atchison, Topeka and Santa Fe Railway Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood
(GL-10484) that:

(a) The Carrier violated the current Somerville Treating Plant Agreement at Somerville, Texas, on August 10, 1989, when it failed and/or refused M. J. Arredondo due process and cooperation in qualifying for Treating Engineer Position No. 7008 and,

(b) Claimant M. J. Arredondo shall now be given the opportunity with full cooperation and stated time to qualify as Treating Engineer."

FINDINGS:

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

The carrier or carriers and the employe 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.

Claimant held seniority on the Timber Treating Plant Seniority Roster. Claimant was the regular assigned occupant of Machinist Position No. 7027 when that position was abolished on July 6, 1989. By exercising his seniority rights, Claimant displaced to Treating Engineer Position No. 7008. After 23 days on the job, Claimant was informed by letter of August 10, 1989, from the Superintendent that he was disqualified as a Treating Engineer. The Superintendent's letter was presented to Claimant by the Assistant Superintendent.

Rule 6-B states:

"When it is decided, following informal hearing with employe involved, that the employe is not qualified for position to which assigned, he may be removed therefrom before the expiration of 45 working day. At such informal hearing the employe may be represented by his duly accredited representative of an employe of his craft. The informal hearing shall be held within three days from date employe is notified unless a longer time is agreed to. The right of appeal from Management's decision is recognized."


Claimant was not afforded an "informal hearing" as required by the Rule. Claimant shall therefore be returned to the Treating Engineer position and shall be afforded his qualification rights in accord with the terms of the Rule. No compensation shall be required.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 23rd day of January 1992.