

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 29507
Docket No. MW-29915
93-3-91-3-283

The Third Division consisted of the regular members and in addition Referee Hugh G. Duffy when award was rendered.

(Brotherhood of Maintenance
(of Way Employes
PARTIES TO DISPUTE: (
(Consolidated Rail Corporation

STATEMENT OF CLAIM:

"Claim of the System Committee of the Brotherhood that:

(1) The Agreement was violated when, effective May 31, 1989, the Carrier assigned junior employe M. Kudrich instead of senior employe E. T. Sweeney to the Class 1 Machine Operator position (torsion beam) advertised on Bulletin No. 26 dated May 22, 1989 (System Docket MW-697A).

(2) As a consequence of the aforesaid violation, Mr. E. T. Sweeney shall be allowed:

'Settlement sought: (1) Class 1 Machine Operator roster date of May 31, 1989. (2) Class 1 Machine Operator rate: ten (10) hours each day claimed, Monday through Thursday at the straight time rate of pay. Also, all the overtime Mr. Kudrich earns while working this position to be verified through a mutual inspection of Mr. Kudrich's pay records between a representative of Conrail and a representative of the Penn Federation.'

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 employes involved in this dispute are respectively carrier and employes 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.

The Carrier advertised a Class 1 Machine Operator position on Bulletin #26 on May 22, 1989. The Bulletin specified that applications would be accepted in the office of the Division Engineer until 4:30 P.M. on Monday, May 29, 1989. The deadline was extended to May 30 since May 29 was a holiday.

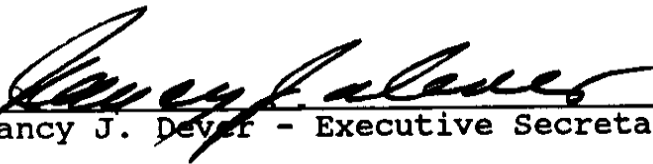
A Repairman, with a seniority date of June 2, 1977, filed a timely bid and was awarded the position on May 31, 1989. Claimant, with a seniority date of September 27, 1974, mailed a bid to the Division Engineer's office on May 26. The record shows, however, that the bid was not received by that office until May 31, one day beyond the extended filing date. Given these facts and circumstances, and under well-established precedents of the Board, we are compelled to deny the claim.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 3rd day of February 1993.