

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 29863
Docket No. MW-29924
93-3-91-3-304

The Third Division consisted of the regular members and in addition Referee John C. Fletcher when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(National Railroad Passenger Corporation
(Amtrak) - Northeast Corridor

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

- (1) The Agreement was violated when, beginning on February 7, 1990, three (3) Third Rail Foreman, seven (7) Third Rail Gang Foreman and seventeen (17) Third Rail Electrician positions were advertised with NORAC and AMT-2 qualifications (System File NEC-BMWE-SD-2659 AMT).
- (2) As a consequence of the aforesaid violation, the positions mentioned in Part (1) above shall be readvertised without the NORAC and AMT-2 qualifications and the Carrier shall refrain from advertising those positions with such qualifications until a new rate of pay can be mutually agreed upon for the new classifications."

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 employe 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 February 1990, Carrier advertised twenty-seven positions to work in its electrified territory. These advertisements contained

qualifications that applicants must pass a satisfactory examination and must be qualified NORAC (Book of Rules) and ATM-2 (Electrical Operating Instructions). The Organization filed claims contending that Rule 2 (Qualifications for Positions) and Rule 65 (Rates of Pay) were violated when Carrier created new classifications without mutually agreeing upon the rate of pay for the new classifications. The claims were denied on the grounds that the Carrier had not changed any requirements for the advertised jobs, requiring employees working in electrified territory to be qualified on NORAC and AMT-2 in the past.

The Organization's argument that Carrier created new job classifications which require negotiation is not well placed. Instead, what seems to be the case is that the bulletins for the new assignments merely included a statement of qualifications which, according to Carrier, had, in the past, always been required of Foremen and Electricians working in electrified territory. It is well settled that a carrier retains the right to set qualifications for a job; and if at some point it determines that it wishes to formalize these requirements by including a statement in a bulletin it is fully within its managerial rights to do so. Additionally, it is not unreasonable for Carrier to insist that Third Rail Foremen, Third Rail Gang Foremen and Third Rail Electricians be NORAC and AMT-2 qualified.

The claim of the Organization is without merit.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: Catherine Loughrin
Catherine Loughrin Interim Secretary to the Board

Dated at Chicago, Illinois, this 26th day of October 1993.