

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 30093
Docket No. MW-30166
94-3-91-3-604

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

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(Burlington Northern Railroad Company
(former St. Louis-San Francisco Railway
(Company)

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

1. The Agreement was violated when the Carrier capriciously and improperly disqualified Mr. R.D. Hauptmeier from the tie crane operator position on Gang T-3 working in the vicinity of Tulsa, Oklahoma on September 4, 1990 (System File B-2436/EMWC 90-12-5 SLF).
2. As a consequence of the violation referred to in Part (1) hereof, M. R.D. Hauptmeier shall be awarded a seniority date as a tie crane operator of August 28, 1990, and he shall be compensated all wage loss suffered."

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.

Claimant was assigned to Bulletin RG-185-CA as a Tie Crane Operator near Tulsa, Oklahoma on Tie Gang No. 3. He was subsequently disqualified by the Carrier and the Organization filed the instant claim on his behalf.

In its denial letter of December 3, 1990, the Carrier stated as follows:

"Mr. Hauptmeier was assigned as a Tie Crane Operator on Tie Gang #3 and was allowed to work this position for several days, but was unable to accomplish the required work as well as being a safety threat to other gang members. Mr. Hauptmeier failed to qualify as a Tie Crane Operator."

Under well-established precedents, the Organization has the burden of proving that the Claimant was qualified to work the position and that the Carrier acted in an arbitrary and unreasonable manner. No such showing was made in this case and we will therefore deny the claim.

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 4th day of April 1994.