

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 31887
Docket No. MW-30402
97-3-92-3-145

The Third Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

(Brotherhood of Maintenance of Way Employees

PARTIES TO DISPUTE:

(Consolidated Rail Corporation

STATEMENT OF CLAIM:

"Claim of the System Committee of the Brotherhood that:

- (1) The Carrier violated the Agreement when it awarded the position of camp cook on the Allegheny 'B' Seniority District, as advertised by Bulletin No. 067, to Mr. E. Fisher, effective October 22, 1990, instead of awarding the position to Claimant T. J. Dilliplane (System Docket MW-1668).
- (2) As a consequence of the aforesaid violation, Mr. T. J. Dilliplane shall be entitled to all roster and benefit rights and he shall be compensated for 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 employee or employees involved in this dispute are respectively carrier and employee 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.

Empl. did not make his
request for position known

The Claimant bid on the position of Camp Car Cook on Bulletin 067 on October 15, 1990. He was not awarded the position, which was given to a less senior employee, who had previous experience as a Camp Car Cook.

Rule 3, Selection of Positions, reads in pertinent part as follows:

"Section 1. Assignment to position.

In the assignment of employees to positions under this Agreement, qualification being sufficient, seniority shall govern.

* * *

Section 2. Qualifications for positions.

In making application for an advertised position or vacancy, or in the exercise of seniority, an employee will be permitted, on written request, or may be required, to give a reasonable, practical demonstration of his qualifications to perform the duties of the position."

The Organization contends the position should have been awarded to the Claimant. The Claimant, however, has never held the position of Camp Car Cook and did not make a written request to demonstrate his qualifications, as referenced in Rule 3, Section 2.

On the other hand, the Organization points out that the Claimant's qualifications as a Camp Car Cook are on record, as evidenced by his possession of an MW-200 card, indicating such qualification. In the Board's view, this is not sufficient to compel the Assignment Clerk to have awarded the Camp Car Cook position to the Claimant, since the Claimant failed to transmit a copy of the MW-200 card at the time of his request for the bulletined position. The bulletin states:

"PLEASE SUBMIT A COPY OF YOUR 200 QUALIFICATION CARD WITH CT-88 FORM."

The record shows the position in dispute was occupied by the junior employee from October 20 to November 21, 1990, when the position was abolished. The claim was initiated on November 25, 1990, when, for the first time (according to the Carrier's undisputed statement), the Claimant provided his MW-200 card.

The Board finds no basis to sustain the claim in view of the following: (1) In contrast to the junior employee awarded the position, the Claimant had no previous incumbency in a Camp Car Cook position; (2) he failed to make a written request to demonstrate his ability (Third Division Awards 26595; 27631); (3) alternately, he did not provide his MW-200 as requested at the time the position was bulletined; (4) the position was abolished within one month, and the Carrier's undisputed statement is that the Claimant's various daily pay rates during that period exceeded the rate of pay for the position he sought.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

**NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division**

Dated at Chicago, Illinois, this 4th day of March 1997.