

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 32480
Docket No. MW-31114
98-3-93-3-115**

The Third Division consisted of the regular members and in addition Referee Dana E. Eischen when award was rendered.

PARTIES TO DISPUTE: (
(Brotherhood of Maintenance of Way Employees
(National Railroad Passenger Corporation (AMTRAK)

STATEMENT OF CLAIM:

"Claim of the System Committee of the Brotherhood that:

- (1) The Agreement was violated when the Carrier awarded an electric arc welder helper position (Award No. 005-PVL-0491) to junior employe L. Pitcher instead of Mr. W. D. Miller (System File NEC-BMWE-SD-3006 AMT).**
- (2) As a consequence of the violation referred to in Part (1) hereof, the Carrier shall rescind the referenced award, award the welder helper position to the Claimant and he shall be compensated for all wage loss suffered as a result of the improper assignment."**

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 were given due notice of hearing thereon.

The Welder's Helper class is divided into three separate rosters according to specialty (i.e., oxyacetylene, thermite and electric arc). W. D. Miller (Claimant) and L. Pitcher each submitted bids for a posted vacancy in the position of Welder Helper (electric arc), although neither had experience or held seniority in that particular speciality. The bid sheets contained a space for listing the employees' "Welder Helper seniority date." Pitcher listed his seniority date as August 9, 1985, based on his standing on the Welder's Helper (thermite) roster; whereas Claimant listed his seniority date as January 6, 1989, based on his standing on the (oxyacetylene) Welder's Helper roster. The job was awarded to Pitcher, based on his greater seniority in the Welder Helper classification.

The Organization protested the award, maintaining that the individual Welder's Helper roster for thermite, oxyacetylene and electric arc each represent a separate classification. The Organization further maintained that because neither employee held seniority on the Electric Arc Welder's Helper roster, the position should have been awarded to Claimant, based on his greater seniority in the Trackman's classification. Carrier denied the claim, asserting that the Organization failed to provide any evidence that seniority in the classification of Trackman governs the awarding of a vacancy in the classification of Welder Helper. Carrier further asserted that, historically, irrespective of Welder Helper speciality, Welder's Helper positions have been awarded to senior employees in the Welder's Helper classification rather than senior employees in the Trackman's classification.

Rule 1 governs the disposition of this claim:

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

The word 'seniority' as used in this Rule 1 means, first, seniority in the class in which the assignment is to be made, and thereafter, in the lower classes, respectively, in the same group in the order in which they appear on the seniority roster."

Pitcher had greater seniority in the Welder's Helper classification, i.e., "seniority in the class in which the assignment is to be made." Accordingly, Carrier made the correct award on his bid because there was no need to look at relative seniority standing

in the Trackman's classification. Because Pitcher was the senior employee in the Welder's Helper class, we must conclude that he was properly awarded said position.

Contrary to the Organization's position, Rule 1 does not contain any language nor does practice establish that the individual Welder's Helper speciality rosters constitute separate classifications. The Organization was unable to refute that the method used to award the position to Pitcher is consistent with Carrier's long-standing past practice in awarding bids based on Welder's Helper seniority when none of the applicants has seniority on the particular specialized roster in question. There is simply no record support for the Organization's contention that the job award in dispute should have been based on Claimant's seniority as a Trackman. Under Rule 1, the only circumstance under which the award would have been based on Messrs. Miller and Pitcher's Trackman's seniority is if neither of the employees had seniority on any roster in the class of Welder's Helper. Because both bidders held Welder's Helper classification seniority, the senior bidder prevailed and the claim is denied.

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 23rd day of February 1998.