

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 36062
Docket No. SG-35577
02-3-99-3-514

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

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(Union Pacific Railroad Company (former Chicago &
(Northwestern Transportation Company)

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Union Pacific Railroad Co. (C&NW):

Claim on behalf of T. S. Omaye for payment of the difference between the Assistant Signalman's rate and the Lead Signal Maintainer's rate for four days and any record of this disqualification removed from the Claimant's record, account Carrier violated the current Signalmen's Agreement, particularly Rules 48 and 51, when it disqualified the Claimant from his Lead Signal Maintainer's position for four days without providing the Claimant with the opportunity to re-test and without holding an investigation. Carrier's File No. 1138489. General Chairman's File No. 8c481739. BRS File Case No. 10968-C&NW.”

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 claim herein presents a situation where the Claimant was temporarily disqualified from his Lead Signal Maintainer position when he failed to maintain his qualification. The record establishes that he twice failed the “Employee-in-Charge” portion of the annual Rules examination on two successive attempts, which triggered the disqualification in accordance with Carrier policy.

Despite the Organization's professed lack of knowledge of the testing requirement and its asserted inapplicability to the Claimant's situation, it is clear the testing had been done in response to an FRA requirement for nearly two years prior to the instant disqualification. Moreover, the Claimant had previously passed the test in 1996 and 1997.

The Claimant recovered from the disqualification by successfully passing the next scheduled weekly examination.

It is well settled that Carriers have the right to determine reasonable qualifications for positions. We do not find that discretion to have been abused here. In addition, the Agreement preamble and other Rules cited by the Organization did not restrict the Carrier's action. Moreover, the FRA mandate is undisputed. Consequently, we do not find the Agreement was violated.

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 21st day of May, 2002.