

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 37013  
Docket No. SG-36994  
04-3-01-3-371**

The Third Division consisted of the regular members and in addition Referee Robert Perkovich when award was rendered.

**PARTIES TO DISPUTE:** ( **(Brotherhood of Railroad Signalmen**  
**(Port Authority Trans-Hudson Corporation**

**STATEMENT OF CLAIM:**

**"Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Port Authority Trans-Hudson Corporation:**

**Claim on behalf of E. F. Eastman to be assigned to Signal Tester position identified as Tour BT-2. Account Carrier violated the current Signalmen's Agreement, particularly Article VI, Sections C2 and C3, when Carrier failed to accept the Claimant's bid for said position and allowed a junior employee to occupy the position. BRS File Case No. 11855-PATH."**

**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.

On February 8, 2000 the Claimant's Signal Repairman I position on Tour A7A was abolished and re-advertised for bid. Subsequently, he sought to displace another employee in a Signal Repairman I position on Tour BT-2, based on the fact that he had greater signal division seniority than that employee. However, the Claimant's request was denied because the employee he sought to displace had greater seniority in that classification.

In support of the claim the Organization relies on Article VI, C, Section 2 that provides, in relevant part, that "(e)mmployees who retain and accumulate seniority in any class of employment . . . shall be allowed. . . , to exercise such seniority . . . for . . . bidding . . ." and the fact that in an earlier claim of a similar type the Carrier resolved the matter consistent with this position of the Organization. The Carrier points out, however, that in Article VI, C, Section 3 the parties explicitly defined "seniority" to be "... without qualification . . . class seniority."

We agree with the Carrier. In defining seniority as the parties have, the Claimant's class seniority was less than that of the employee he sought to displace. His request to do so was properly denied.

The Organization also claims that because the Carrier settled another claim consistent with the Organization's position in this matter the Carrier was obligated to do so again. We disagree. One such incident does not rise to the level of a binding obligation. (See e.g., Third Division Awards 23943 and 25870.)

**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 18th day of May 2004.