

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 37949
Docket No. MW-36710
06-3-01-3-261**

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

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(Union Pacific Railroad Company)

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The Carrier violated the Agreement on February 28, 2000 when it denied Mr. R. Campos’ bid for the position of dump truck driver on Bulletin No. WTS 2155 and when it failed and refused to allow him a reasonable time to acquire the necessary permits and/or licenses to fulfill the position (Carrier’s File 1229793 SPW).**
- (2) As a consequence of the violation referred to in Part (1) above, Mr. R. Campos’ bid for the dump truck driver position in question shall be allowed and he shall be compensated for all lost wages for the position of dump truck driver versus a laborer’s position.”**

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 basic facts are not in dispute. The Claimant had a few months more than two years of service as a Laborer at the time the claim arose. Although he had aspirations to bid on and secure a Truck Driver position, he had not taken any steps to comply with Department of Transportation (DOT) regulations to acquire a commercial driver's license (CDL) before bidding on the position in question. He was deemed not qualified because he did not have the requisite license that was required by the bulletin. Approximately one week after his bid was disallowed, the Claimant requested a DOT packet to begin the CDL acquisition process. As of May 12, 2000, when the Carrier initially denied the claim, the Claimant had not accomplished any of the steps needed to obtain the CDL. For example, he had not taken the physical examination. According to the Carrier's next denial, dated August 28, 2000, the Claimant still had not satisfied the requirements to obtain the license. Nothing in the record shows that the Claimant ever completed any of the steps necessary to acquire the CDL.

The Carrier's final correspondence on the property, a letter dated April 6, 2001, noted that the Claimant resigned on December 12, 2000. According to the Carrier, as a result, his claim was moot.

The Organization did not challenge the fact of the Claimant's resignation, nor did it refute the assertion that the claim was moot as a result.

Given the state of the record, we accept the Carrier's unchallenged assertions and dismiss the claim. In light of this disposition, nothing herein should be interpreted as a finding on any of the substantive issues discussed in the record.

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AWARD

Claim dismissed.

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 19th day of September 2006.