

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 38378
Docket No. CL-39286
08-3-NRAB-00003-060164
(06-3-164)

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

PARTIES TO DISPUTE: (Transportation Communications International Union
(CSX Transportation, Inc.)

STATEMENT OF CLAIM:

“Claim of the System Committee of the TCU (GL-13123) that:

- (a) The Carrier violated the CXT/North Rules Agreement effective June 1, 1999, particularly Rules 4, 5, 9 and others when on June 3, 2004, the Carrier awarded position, 081-A-104, located at the Walbridge, Ohio Stores Department to a junior employee, Mr. J. C. Scott, and failed to award this position to senior employee Ms. Myers.
- (b) Claimant Ms. Myers must now be allowed eight (8) hours pay at the appropriate punitive rate of pay for each and every work day commencing June 4, 2004 and continuing until the Carrier awards this position to the senior employee.
- (c) This claim has been presented in accordance with Rule 45 and must be allowed.”

FINDINGS:

The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

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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 above cited claim involves the same incident, circumstances, and issue as was involved in and decided by the Board in Third Division Award 38377, except that it is for a different Claimant and there are some additional arguments not made in the prior claim.

As the Board held in Third Division Award 28427, without the assistance of a Referee, although the grievance before the Board in that case involved the same claimant as in a prior case, we concur with the basic principle espoused in the Award. That is, we do not consider it the intent of the Railway Labor Act, which has as one of its primary purposes, the prompt and orderly settlement of disputes growing out of grievances or out of the interpretation or application of Agreements that the Board repeatedly adjudicate the same dispute involving the same parties and arising out of the same occurrence, simply because the claim may be submitted to the Board worded slightly differently or involve a different claimant.

The above reasoning leads to the conclusion that the instant case must be dismissed as an improper pyramiding of a claim involving the same alleged violation of Rules that the Organization elected to pursue in a prior case, and we so decide.

AWARD

Claim dismissed.

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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 December 2007.