

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 42817
Docket No. MW-42977
17-3-NRAB-00003-140464**

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

**(Brotherhood of Maintenance of Way Employees Division -
(IBT Rail Conference**
PARTIES TO DISPUTE: (
(Soo Line Railroad Company (former Chicago,
(Milwaukee, St. Paul and Pacific Railroad Company)

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The Carrier violated the Agreement with it failed to assign B. J. Jenneman the permanent position of Glenwood B&B Foreman Per CP System bulletin award #444 A dated August 12, 2013. Carrier instead assigned junior employee George Williams in clear violation of the Soo Line Collective Bargaining Agreement Rule 4, 8, and 11.**
- (2) Remedy sought: that Carrier shall immediately assign Claimant to system bulletin award #444A and until assigned Claimant Jenneman shall receive all differenced in pay, overtime, and benefits the disputed position incur's and all other rights restored which were lost to Claimant as result of Carrier's violation.”**

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 July 24, 2013, the Carrier issued a bulletin for a Glenwood B&B Foreman position. Claimant submitted a bid for the position. Due to a typographical error the Claimant's name appeared on the B&B Foreman's roster. As soon as the Carrier discovered the error it made the appropriate correction. The position was awarded to another employee on August 12, 2013. In a letter dated September 17, 2013 Representative Gene Bell filed a claim on behalf of the Claimant alleging the Carrier violated Rules 4, 8, and 11 of the Collective Bargaining Agreement. The Carrier denied the claim by letter dated September 26, 2013. Representative Gene Bell appealed the claim to the Carrier's Highest Designated Officer by letter dated November 1, 2013. The claim was again denied by the Carrier by letter dated November 6, 2013. The matter was progressed to the NRAB by letter dated August 3, 2014.

Mr. Bell, on behalf of the Claimant asserts the relevant language in the collective bargaining agreement language, Rule 7 (c) is as follows:

“Temporary rosters will be compiled and posted as of September 1st of each year, and will be open for corrections for a period of 90 days from date of posting. Upon representation of proof of error by an employee or his representative, such error will be corrected. If no protest is registered within 90 days, the dates will stand and thereafter will not be subject to protest on any future rosters, except that any clerical error or omissions will be corrected. Permanent rosters including corrections will be issued January 1st of the following year.”
[emphasis added]

The Carrier takes the position that the Claimant's name only appeared on the B&B Foreman roster due to a clerical error and that he was ineligible for the position. The language in the quoted contract language lists clerical errors as an exception that can be corrected at any time. Additionally, the Carrier argues Representative Bell was advised in the letter dated September 26, 2013 that based on a conversation between Labor Relations for the Carrier and BMWED Vice General Chairman, Mr. Terry Barrette the “parties agreed that Mr. Jenneman does not have a B&B Foreman

Seniority dating . . . and that the Glenwood B&B Foreman position was correctly awarded.”

The Board has reviewed the record before it in this matter and concludes that the language in Rule 7 (C) of the Collective Bargaining Agreement clearly indicates that clerical errors, such as the one that happened in this case, can be corrected at any point when they are discovered. The Claimant’s name was erroneously placed on the B&B Foremen Seniority roster. This typographical error was corrected as soon as it was discovered. The Claimant was not eligible for the position nor was he the proper employee to be awarded the position.

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 28th day of November 2017.