

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 43401
Docket No. SG-44177
19-3-NRAB-00003-170235**

The Third Division consisted of the regular members and in addition Referee Andria S. Knapp when award was rendered.

**(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(Illinois Central Railroad Company**

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Canadian National (formerly Illinois Central):

Claim on behalf of J.R. Collins, for the difference in pay between the Signalman’s Position he is currently assigned, and the Signal Foreman’s Position from November 5, 2015, until this dispute is resolved or until Carrier permits him to qualify for a Signal Foreman’s Position; account Carrier violated the current Signalmen’s Agreement, particularly Rules 20 and 28, when on November 5, 2015, it did not permit the Claimant to attempt to qualify for the Signal Foreman’s Position he displaced on. Carrier’s File No. IC-BRS-2016-00001. General Chairman’s File No. IC-020-015. BRS File Case No. 15569-IC.”

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 August 14, 2015, the Claimant was awarded a Foreman position, but when he failed to qualify, he was removed and returned to his former position. On November 5, 2015, he bid on another Foreman position, but because he had previously been disqualified, the Carrier deemed him unqualified and awarded the position to someone else.

This case presents the same issue that was presented in Third Division Award 43399, except the position at issue in that case was Signal Inspector, not Foreman. In Award 43399, the Board held that the Carrier was entitled to assume that someone who failed to qualify for a position was in fact not qualified for it and to refuse to consider their bid for a reasonable period of time. The Board found that 90 days was reasonable. In this case, the Claimant bid on another Foreman position less than 90 days after he had been disqualified. That was within the time period that the Carrier could reasonably assume that he was not qualified, and the grievance is denied.

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 January 2019.