

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 43404
Docket No. SG-44475
19-3-NRAB-00003-170634**

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 A.M. Walsh, for the difference in pay for 205.5 hours (\$4.53 per hour difference for a total of \$930.92) between the Signalman’s position she is currently assigned, and the Signal Foreman’s Position she should have been permitted to qualify for from May 2, 2016, until May 22, 2016; account the Carrier violated the current Signalman’s Agreement, particularly Rule 28, when on April 29, 2016, it did not assign her nor permit her 20 workdays to attempt to qualify for the Signal Foreman’s position she was the senior bidder on. Carrier’s File No. IC-BRS-2016-00006. General Chairman’s File No. IC-004-016. BRS File Case No. 15653-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 November 4, 2015, the Claimant failed the qualifying test for a Foreman position that she had bid on and been awarded. Between April 15 and April 26, 2016, she bid on another Foreman position. Because of her prior disqualification, the Carrier deemed the Claimant to be unqualified for the position, it refused to consider her bid and awarded the position to another employee.

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 more than five months after her initial disqualification. The Claimant should have been awarded the position and had an opportunity to qualify again.

The Organization has asked that the Claimant be awarded the difference in pay between the Signalman's position and Signal Inspector from the date that the Claimant should have been awarded the Signal Inspector position. However, there is no indication in the record or any guarantee that she would have qualified the second time around. As a result, no monetary remedy will be awarded.

AWARD

Claim sustained in accordance with the Findings.

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ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

**NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division**

Dated at Chicago, Illinois, this 18th day of January 2019.