

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 43407  
Docket No. MS-44607  
19-3-NRAB-00003-180028**

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

**PARTIES TO DISPUTE:** (Mark Skiba  
(Illinois Central Railroad Company)

**STATEMENT OF CLAIM:**

“Mark Skiba (Pro-se Claimant) states his claim:

**Rules of CBA Violated**

1. Carrier did not follow the binding arbitration steps of the collective bargaining agreement, in dealing and adjudicating the grievances of a pro-se claimant, in reference to job application bids Claimant had made for Bulletin 9 Lead Hand Inventory Maintainer, Bulletins 518 and 529 Material Handler, and Claimant’s Displacement requests of 3/20/2017 for placement in one of several “C exempt” positions. (Rules 15, 22, 25 respectively).
2. Carrier, represented by Anissa Black, as administrator of CBA disputes, denied Claimant some of the progressive steps of the CBA authorized grievance process (Rules 22, 24, 25); violated time limits; and acted unprofessionally at the Bulletins 518/529 conference whose conduct Claimant found intimidating. Carrier has duty to ‘fair deal’, Ms. Black did not.
3. Carrier, represented by Anissa Black, as administrator of CBA disputes, in the case of hiring for Bulletin 9 made unsubstantiated and false conclusions in rendering a character assassination against Claimant. Carrier has a duty to respect the position of the counter-party, Ms. Black did not.

4. Carrier has violated Rule 6 – Seniority Based Job Bidding, in its arbitrary and pervasive conversions of Rule 6 positions to ‘C Exempt’ positions, and Carrier violated Rule 6 and 15 in the contrary administration of hiring that Carrier implemented for the converted ‘C exempt’ positions.”

**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 January 4, 2017, the Carrier posted a vacancy for a Lead Hand Inventory Maintainer in the Supply Management Department at Gary, Indiana. The Petitioner filed a bid for this position, but asserts he was not offered an opportunity to interview for it. The Petitioner’s claim, filed on January 23, 2017, was denied by the Carrier on January 25, 2017. On January 30, 2017, the Petitioner filed an appeal with the Carrier’s Highest Designated Officer and requested a hearing. The appeal was denied, with the Carrier taking the position that a hearing is not a part of the grievance process.

Notwithstanding the Carrier’s denial of the claim, and the fact that the position had already been awarded to another employee who had greater seniority than him, the Petitioner was given an opportunity to interview for the vacancy. This interview took place on February 2, 2017, but did not change the Carrier’s decision to award the position to the other employee.

The Carrier first argues that the Notice of Intent filed by the Petitioner, wherein he states his claim before the Board, has expanded upon the claim he

presented on the property. It is well-established that the Board may only consider claims as they have been presented and handled on the property. Section 3 First (i) of the Railway Labor Act gives us jurisdiction only over claims that are “handled in the usual manner.” The Petitioners are not permitted to supplement or amend their claims upon presentation to the Board. We are, therefore, confined to consideration of the on-property handling.

The record before the Board shows that the bulletin advertising this vacancy stated, “This position is excepted from Rule 6, and Rules 15 and 36 to the extent that management shall select the employee to be assigned.” The Carrier asserts that this position is covered by Appendix G Excepted Positions as a “C-position,” for which management has the right of appointment. While Appendix G includes a list of the positions which are excepted, the record before us does not contain a copy of that list.

Even though the record did not contain a copy of that list, neither Party disputes that is an excepted position. Regardless, it does not require us to sustain the claim. Even if it were not, the record shows that the Petitioner’s seniority date in the clerical craft is March 4, 2013, while the employee who was awarded the position has a seniority date of May 4, 2011. Thus, even if the Agreement required the position to be awarded on the basis of seniority, the Petitioner would not have been the successful bidder. The failure to award him the position, therefore, was not a violation of the Agreement.

**AWARD**

Claim denied.

**ORDER**

This Board, after consideration of the dispute identified above, hereby orders that an Award favorable to the Petitioner (s) not be made.

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

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