

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 43411
Docket No. 44170
19-1-NRAB-00003-170034**

The Third Division consisted of the regular members and in addition Referee Elizabeth C. Wesman when award was rendered.

(SMART – Transportation Division

PARTIES TO DISPUTE: (

(Illinois and Midland Railroad

STATEMENT OF CLAIM:

“Claim is made for and on behalf of Andrew Burger. Mr. Burger is seeking for his employment status to be reinstated, the disqualification from Machinist Position be reversed, and all lost wages and benefits be paid, including lost personal time used to extend his health insurance benefits. Resulting from being furloughed due to being disqualified from the Machinist position without just cause.”

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.

This claim arose commencing February 25, 2016 when the Carrier posted a bulletin notice advising of positions that would be abolished in the Carrier's Maintenance of Way (MOW) department. An employee senior to Claimant then exercised his seniority to displace Claimant from his Section Foreman position. Claimant then submitted a request to bump a Machinist from his assignment. Since

Claimant was not then qualified as a Machinist, he commenced training for the position. He had 90 days to qualify.

Evidence on this record indicates without dispute that Claimant failed to qualify in the time allotted. The Parties have agreed to allow Claimant a \$2500 payment to Claimant and have confirmed that he consequently resigned from the Carrier's employ. Accordingly, and without precedent for future similar cases that may arise, this claim is denied in its entirety.

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 17th day of January 2019.