

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 44084
Docket No. SG-45473
20-3-NRAB-00003-190290**

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

PARTIES TO DISPUTE: (
(Brotherhood of Railroad Signalmen
(Union Pacific Railroad Company

STATEMENT OF CLAIM:

“Claim on behalf of M.A. Demke, for compensation of \$20.00 a day starting on January 28, 2018, continuing until the dispute is resolved and he is placed on the Skilled Signalman position on Gang 2136, account Carrier violated the current Signalmen’s Agreement, particularly Rules 40 and 41, when on January 12, 2018, Carrier failed to assign Bulletin Z5S52989 to the Claimant, who was the senior qualified employee, and assigned the position to a junior employee.”

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.

In the instant claim, the Organization alleges the Carrier violated the Agreement when it failed to assign the Claimant to Bulletin Z5S52989 for a Skilled Signalman position on Gang 2136, and instead, assigned a junior employee to the position.

The Organization argues a) the Claimant was the senior applicant and should have been awarded the position, and b) although the Carrier alleges the Claimant was not CPM qualified for the position, the Organization provided documentation indicating problems with the CPM system and how those problems impacted the Claimant.

The Carrier argues a) the Claimant, although senior to the employee who was awarded the position, lacked and did not possess the required CPM qualifications identified on the bulletined position (AGR-Signalman Compliance Training), b) the Carrier has the managerial right to set qualifications for positions, c) the Organization failed to meet its burden of proof, and d) the remedy sought by the Organization is improper.

After a thorough review of the record, the Board finds the Organization lacked sufficient proof to establish an Agreement violation. The bulletined position clearly identifies the AGR-Signalman Compliance Training as a required qualification for the position. Although the Organization provided a statement from the Claimant indicating problems he had with the computer-based training failing to link up in the Carrier system, there was simply no evidence offered that clearly established that the Claimant actually completed all the required training for the position. Nor was there any evidence offered indicating the Carrier was notified that all required training for the position had been completed by the Claimant on or before the bulletined position was closed on January 8, 2018. Given these facts, the claim must be denied.

Although the Board may not have repeated every item of documentary evidence, nor all the arguments presented, we have considered all the relevant evidence and arguments presented in rendering this Award.

AWARD

Claim denied.

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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 11th day of August 2020.