

PUBLIC LAW BOARD NO. 1582

PARTIES) ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY  
TO )  
DISPUTE) BROTHERHOOD MAINTENANCE OF WAY EMPLOYEES

STATEMENT OF CLAIM: The Carrier violated the Agreement when, on January 20, 1986, it awarded a B&B mechanic's position to junior B&B helper C. W. Ritter instead of Mr. H. E. Biggar.

Because of the aforesaid violation, Claimant H. E. Biggar shall be promoted to B&B mechanic as of January 20, 1986 and he shall be allowed the difference between what he should have received at the B&B mechanic's rate and what he was paid at their B&B mechanic's helper's rate beginning January 20, 1986 and continuing until he is promoted to B&B mechanic.

FINDINGS: This Public Law Board No. 1582 finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, and that this Board has jurisdiction.

In this dispute the claimant had a letter on file with the Division Engineer requesting promotion to mechanic. On January 2, 1986 the Carrier promoted junior helper W. Ritter. The claimant had a helper's seniority date of April 24, 1972, while Mr. Ritter's date was March 1, 1979.

Rule 8(a) of the Agreement dated January 1, 1984 provides, among other provisions, that the Carrier is required to give the employee an opportunity to take an oral or written examination, and when practicable, to demonstrate that he possesses the fitness and the ability to work in the higher class.

The Union contends that the Carrier has not complied with the above quoted rule of the Agreement and urges that the claim be sustained. The Carrier contends that the claimant did not have the capability to perform work without step by step instructions from the foreman and was not able to lead the work when necessary.

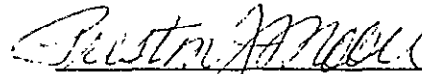
The Board has considered all the testimony and evidence presented. The evidence indicates that the claimant failed to establish that he was qualified for the position. However, in view of the statements submitted by his co-workers, particularly the statement from the B&B Foreman, it is the opinion of the Board that the claimant should be given an opportunity to demonstrate his ability for promotion to B&B mechanic.

The instant claim will be denied on the basis that the claimant did not sustain the burden of proof that he was qualified. However, the Carrier is directed to consider the claimant for the

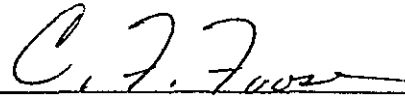
next position of a B&B mechanic to be filled under Rule 8. The Carrier is further directed to give the claimant a reasonable opportunity to demonstrate his ability when such vacancy arises.

AWARD: Claim disposed of as per above.

ORDER: The Carrier is directed to comply with this award within thirty days from the date of this award.



Preston J. Moore, Chairman



Union Member



Carrier Member

*Dated at Chicago, Illinois  
January 18, 1988*