

PUBLIC LAW BOARD NO. 2142

Award No. 19

Docket No. 1111

Parties Brotherhood of Maintenance of Way Employees
to and
Dispute Illinois Central Gulf Railroad

Statement
of Claim:

Carrier violated the Effective Agreement when it unfairly and arbitrarily awarded a Welder's position at their Centralia Plant to a junior employee. Claimant A. G. Albers be placed on the Welder's Seniority Roster with a seniority dating of March 12, 1976, when he was assigned a Welder's position, by Bulletin, covering same on above date. Claimant A. G. Albers shall be placed on the Welder's position at the Carrier's Centralia Plant and compensated for the difference in the Welder's rate of pay and the Trackman's rate of pay he held at the time of this violation, until he is placed on the Welder's position.

Findings: The Board, after hearing upon the whole record and all evidence, finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, that this Board is duly constituted by Agreement dated January 23, 1978, that it has jurisdiction of the parties and the subject matter, and that the parties were given due notice of the hearing held.

Claimant, a former track laborer, bid for and was awarded the position of a Welder, on the St. Louis Division, on April 9, 1976. Claimant had been awarded such bid predicated on anticipation of obtaining a certain electric type welding machine which was not available at the time the award to Claimant was made. After passage of several weeks without any sign of the machine becoming available, the Company decided to abolish Claimant's position, effective April 30, 1976. Claimant thereupon exercised his track laborer's seniority pursuant to Rule 30A.

Since Claimant had not been able to perform welding during the 18 days that he had been assigned to the welder's position, the Carrier was unable to evaluate his ability to weld.

A Welder's position was subsequently advertised, in February 1977, at Carrier's Centralia Rail Welding Plant. Welder Helper,

J. K. Littrell, bid for and was awarded such position on the premise that he, Littrell, had Welder Helper's seniority whereas Claimant did not.

Rule 3(A), in pertinent part, reads:

"Seniority in an employee begins at the time an employee's pay starts."

Rule 8(D), in pertinent part, provides:

"D. An employee accepting promotion will be allowed not less than 10 nor more than 40 working days in which to qualify, and failing to qualify, will be returned to his former position without loss of seniority in the rank from which promoted."

There is no question but that Claimant did not demonstrate his proficiency in being able to operate the electric welder during the fifteen (15) days that he was in the gang. Yet, on the other hand, Claimant was not advised at the time his position was abolished that he was not considered to have acquired welder's seniority because of not having performed service as such.

In the particular circumstances, the Board finds that the claim should be disposed of by awarding Claimant "Temporary Welder's" seniority, effective as of April 12, 1976, but with the specific stipulation that Claimant will have to bid for the first Welder's position available hereafter in his seniority territory and serve the required 40 day period in order to permit a judgment as to his welding qualification. If Claimant so qualifies, then such temporary seniority date will then be made permanent.

However, it is to be noted that such temporary seniority date is just that and may not be used for displacement purposes during the intervening period of time.

Award: Claim disposed of as per findings.

Order: Carrier is directed to make this Award within thirty (30) days of date of issuance shown below.

John Paloni
J. P. Paloni, Employee Member

M. J. Hazen
M. J. Hazen, Carrier Member

Arthur T. Van Wart
Arthur T. Van Wart, Chairman
and Neutral Member