

Public Law Board No. 2363

PARTIES
TO
DISPUTE:

Brotherhood of Maintenance of Way Employees
and

Seaboard System Railroad (former L&N Railroad)

STATEMENT
OF
CLAIM:

1. Carrier violated the agreement when it improperly disqualified R. L. Johns as Back Hoe Machine Operator on October 15, 1982.

2. Claimant shall now acquire seniority as Back Hoe Machine Operator as of October 15, 1982 and shall be compensated for all earnings lost and expenses incurred because of violation referred to above in paragraph 1.

FINDINGS:

This dispute concerns the back hoe, a rather complex and expensive piece of machinery. The claim is that R. L. Johns was wrongfully disqualified as a back hoe operator.

As the senior applicant, he was permitted to occupy a vacant back hoe operator position on April 15, 1982. After he had worked in the position for about a week, the Roadmaster reported that he was not progressing in a satisfactory manner in handling the equipment. He was allowed to continue in that position, however, until on April 26, 1982, he struck a dwarf

signal with the back hoe and thereby caused damage to the signal.

Claimant was then removed from the position, but was subsequently awarded the position by bulletin of September 29, 1982, subject to qualified, since he was the senior now-qualified applicant. However, he was again found unqualified in Carrier's opinion to handle the machine and was disqualified on October 15, 1982.

In all, he was allowed about 5 1/2 weeks to demonstrate his ability to operate the back hoe. There is no evidence that he was subjected to unfair discrimination or that any improper consideration prompted Carrier to disqualify him. Nor is there convincing proof in the record that he was a competent back hoe operator. Petitioner's assertion that claimant had previously, in 1975, qualified on a back hoe is unsupported by the evidence.

In the absence of any showing that Carrier's assessment of qualifications was unreasonable or cavalier, no basis exists for a sustaining award. Certainly, claimant was afforded ample time to meet Carrier's qualifications.

AWARD: Claim denied.

Adopted at Jacksonville, Florida, Dec. 19, 1985.



Harold M. Weston, Chairman


Carrier Member
Employee Member