

PROCEEDINGS BEFORE PUBLIC LAW BOARD NO. 3781

AWARD NO. 28

Case No. 85

Referee Fred Blackwell

Carrier Member: R. O'Neill

Labor Member: W. E. LaRue

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

vs.

CONSOLIDATED RAIL CORPORATION

STATEMENT OF CLAIM:

Claim of the Brotherhood (CR-2355) that:

- (a) The Carrier violated the Scheduled Agreement, particularly Rules 3 and 40, when advertising the position of vehicle operator and requiring the applicants to operate three pieces of equipment.
- (b) The Carrier further erred when it failed and refused to allow R. L. Beam the opportunity to learn to operate and qualify for a vehicle operator position on his own time, at no expense to Carrier, and thereby denying the employee training.
- (c) The Carrier shall now abolish the multi-vehicle operator position immediately and properly readvertise the position and grant employee R. L. Beam sufficient time to train on the log loader in order to qualify.

FINDINGS:

Upon the whole record and all the evidence, after January 18, 1988 hearing in Washington, D. C., the Board finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended, and that this Board is duly constituted by agreement and has jurisdiction of the parties and of the subject matter.

OPINION

The question here is whether the Carrier violated the Conrail/BMWE Agreement by its action of requiring the applicants for five (5) Vehicle Operator positions advertised in November 1985 at the Central Region M. W. Material Yard, Pitcairn, Pennsylvania to be qualified to operate four (4) types of vehicles, tractor trailers, log loaders, articulate cranes, and boom trucks; and of refusing to allow the Claimant the opportunity to train on his own time to operate a log loader.

After due study of the record as a whole, including the submissions presented by the parties in support of their positions in the case, it is concluded and found that the record does not establish a Carrier violation of the rules cited as supporting the claim, Rules 3 and 40; and that in consequence, the claim must be denied for lack of rule support.

In reaching this conclusion careful assessment has been made of the cited rules and of the Organization's contention that the Carrier's previous advertisements of Vehicle Operator positions in Track Gangs to operate a single vehicle is a correct application of Rule 3, which the Carrier should be bound to follow in this dispute.

In the final analysis, however, the information of record does not establish an Agreement violation by the Carrier's handling of the disputed vehicle operator advertisement.

The Carrier has Agreement authority to determine the qualifications of an advertised position, and the requirement of

multi-qualifications for Vehicle Operators at the Central Region M.W. Material Yard, Pitcairn, Pennsylvania, is not shown to be an arbitrary or unreasonable exercise of that authority. More specifically, there is no showing that the multi-qualifications required in the disputed bulletin were not needed and/or not used by the activity at the Central Region M.W. Material Yard and hence, there is no basis for finding the Carrier acted wrongfully. In addition, the record evidence does not establish that the Carrier's prior advertisement of Vehicle Operator positions with single vehicle qualifications, constitutes a practice or an interpretation of Rule 3 which the Carrier was bound to follow in this case.

In respect to the issue concerning the Carrier's denial of the Claimant's request to be trained on the log loader, the record does not contain credible evidence that a Rule 40 violation occurred by reason of an action by the Carrier which favored another Employee over the Claimant in respect to an opportunity to train on the log loader.

In view of the foregoing, and based on the record as a whole, the claim will be denied.

AWARD:

Claim denied.

BY ORDER OF PUBLIC LAW BOARD NO. 3781.

P.L. Board No. 3781 - Award No. 28 / Case No. 85

Fred Blackwell
Fred Blackwell, Neutral Member

R. O'Neill
R. O'Neill, Carrier Member

William E. LaRue
W. E. LaRue, Labor Member

Executed on May 16, 1989

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