

Public Law Board No. 3794

PARTIES  
TO  
DISPUTE:

Brotherhood of Maintenance of Way Employees  
and  
Seaboard System Railroad

STATEMENT  
OF  
CLAIM:

1. The Carrier violated the Agreement when it improperly disqualified Mr. G. J. Yow as a Class III (Backhoe) Machine Operator on October 8, 1982 [System File P/R Yow, G. J./12-39 (82-1197) J2].
2. The claimant shall be compensated for all earnings lost and for all expenses incurred because of violation referred to in Part (1) hereof.

FINDINGS:

Claimant, a Trackman, was awarded the position of Machine Operator, Class III (Backhoe) effective September 20, 1982.

Rule 8, Section 8(b), of the Agreement, prescribes that a successful bidder for a track machine operator position shall be allowed ten working days to qualify.

Claimant occupied the awarded position for ten days ending October 6, 1982 and, in Carrier's judgment, showed unsatisfactory ability towards qualifying on the backhoe. Statements by Roadmaster Lee and Section Foremen Beasley and Kinsey support Carrier's decision in that regard.

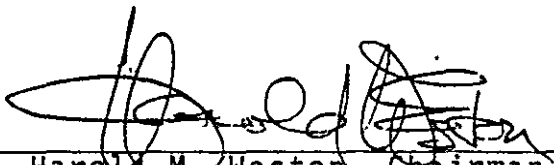
Petitioner's position is that claimant was not disqualified within the ten-day period specified by Rule 8 Section 8(b) and must therefore be deemed to have qualified for the position of backhoe operator. The record establishes that claimant did fill the backhoe position for 12 days.

There is nothing in this record that shows that it was arbitrary and inconsistent with claimant's interests to allow him to work two additional days before disqualifying him. The additional days were the last two work days of claimant's scheduled work week and gave claimant the benefit of two more days to qualify. Rule 8 would have been violated if Carrier did not give claimant at least ten days to demonstrate his ability; it was not inconsistent with its terms to provide him with an additional two days.

AWARD:

Claim denied.

Adopted at Jacksonville, Florida, May 30, 1985.

  
Harold M. Weston, Chairman

  
Carrier Member

  
Employee Member