

PUBLIC LAW BOARD NO. 5606

**PARTIES) BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
TO)
DISPUTE) SPRINGFIELD TERMINAL RAILWAY COMPANY**

STATEMENT OF CLAIM:

Claim of the System Committee of the Brotherhood that:

- 1. The Agreement was violated when the Carrier failed and refused to assign Trackman Darren Ripley to an advertised work equipment repairman position for which he had submitted application commencing October 29, 2001 and continuing. ***
- 2. As a consequence of the violated referred to in Part (1) above, Trackman Darren Ripley be awarded the position of Work Equipment Repairman and place Mr. Ripley ahead of the employee on the Seniority Roster who the Carrier hired for this position. Additionally, the Organization requests that Mr. Ripley be compensated for all time and benefits that Mr. Ripley would be entitled to if the Carrier had awarded the position as outlined in the Articles of the current Agreement.**

*** Numerous claims were filed for the violations with the first claim dates commencing on October 29, 2001 and the series of claims was docketed to this Board as Docket 19 (Carrier's File MW-02-20). A second series of claims with the first claim dates commencing March 25, 2002 was handled separately and docketed to this Board as Docket 20 (Carrier's File MW-02-36). Since the claims involve the same violation the parties agreed to handle both dockets as one case for presentation to the Board.**

FINDINGS:

The Board, after hearing upon the whole record and all the evidence, finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended; this Board has jurisdiction over the dispute involved herein; and, the parties were given due notice of hearing thereon.

The question at issue in this claim concerns a determination as to whether the Carrier failed to comply with Article 7 when it determined Claimant not to be

qualified for an advertised position of Work Equipment Repairman at its Waterville, Maine facility.

Article 7, in part here pertinent, reads:

In making application for an advertised position or vacancy, or in the exercise of seniority, employees may be required to give a reasonable practical demonstration of their qualifications to perform the duties of the position. Employees will be allowed up to 30 days to demonstrate sufficient qualifications.

It is the position of the Organization that the Carrier violated the above mentioned provisions of Article 17 in declaring that Claimant was not qualified for the position of Work Equipment Repairman solely on the basis of a personal interview and not having given Claimant an opportunity to demonstrate over a 30-day period of time that he has sufficient qualifications for the position.

The Organization maintains that the above quoted portion of Rule 7 dictates that an employee need not be immediately qualified for an advertised position, but that an employee has a 30-day window in which to demonstrate sufficient qualifications. In this same respect, the Organization says that possession of sufficient qualifications does not mean that an employee be fully qualified in every aspect of a position but that the employee has the ability to learn the duties of a position over time.

The Carrier maintains that the Claimant did not possess the basic qualifications for the position and was properly determined at an interview not to be qualified for the position. It submits that the Manager and the Assistant Manager of the Mechanical Department interviewed Claimant, reviewed his resume, and discussed with him the various aspects of the position. Further, the Carrier directs attention to a detailed statement from the Manager Mechanical Department in explanation as to the basis for it being determined that Claimant did not possess the basic qualifications for the position.

As concerns the above referenced language of Rule 7, the Carrier disputes the Organization contention that it provides an employee 30 days to become qualified for a position. The Carrier says that an individual must already have the basic qualifications for a position prior to being awarded the job.

There is no question that Article 7 could have been more specific as to how it was intended that all concerned could be satisfied as to the ability of an applicant for an advertised position. As written, the first sentence of the contract language at issue states that an employee "may" be required "to give a reasonable demonstration of their qualifications" to perform the duties of the position. The second sentence states that an employee "will" be allowed up to 30 days to demonstrate sufficient

qualifications. It thus appears to the Board that as the language now stands, an individual may be required in the first instance to demonstrate at an interview that he or she has the basic qualifications to fulfill the duties of the position, and, if so, will then be given basically a 30-day probationary period to demonstrate that they do indeed possess sufficient qualifications to perform all job functions associated with the position.

Given the unique nature of the duties that attach to the position at issue, a Work Equipment Repairman, and the need for the position to be filled by an individual who, by reason of training and experience, possesses skills necessary for the repair of various types of heavy and light duty mechanical equipment, it is difficult to accept, as the Organization urges, "that sufficient qualifications does not mean that an employee be fully qualified in every aspect of a position but that he has the ability to learn the duties of a position over time." Certainly, in consideration of the extensive scope of the job duties and a limited workforce, it is apparent that the Carrier is not in a position to set aside needed repairs to its mechanical equipment while an individual learns major portions of the duties of the position over time.

Moreover, the Carrier to has put forth sufficient reason for it to be concluded that Claimant was not able to show that he possessed the basic ability to assume a number of the job functions of the position. The Board also finds it significant in this respect that during an interview with Carrier officials, Claimant is shown to have acknowledged that he had no past experience involving several major job functions of the position.

In the light of the above considerations and overall study of the arguments of the parties, including the findings of awards as cited, the Board is satisfied that the Carrier has met a necessary burden of proof to show that the Claimant was not qualified for the position at issue. The claim will, therefore, be denied.

AWARD: Claim denied.



Robert E. Peterson
Chair & Neutral Member



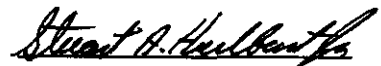
Anthony F. Lemanto

Carrier Member

Timothy McNulty

North Billerica, MA

Dated 12-9-03



Stuart A. Hulburt, Jr.

Organization Member