

Award No. 4  
Case No. 4

PUBLIC LAW BOARD NO. 5696

PARTIES Burlington Northern Railroad Company  
TO  
DISPUTE:

AND

Brotherhood of Maintenance of Way Employees

STATEMENT OF CLAIM:

Claim of the System Committee of the Brotherhood that:

- (1) Mr. Wayne L. Lewis was unjustly disqualified from the position of mechanic.
- (2) As a consequence of Carrier's violation referred to above, Claimant shall be reinstated back to his mechanic's position at once, and paid for all time lost and all other rights unimpaired.

FINDINGS

Upon the whole record 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 under Public Law 89-456 and has jurisdiction of the parties and the subject matter.

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GENERAL CHAIRMAN'S OFFICE  
FRISCO FEDERATION RMWE

The record indicates that Claimant was disqualified from his position of mechanic on December 9, 1993. Following this disqualification, an investigation was held pursuant to a request by Claimant on January 3, 1994. Following the investigation, Mr. Lewis was disqualified from the position in question with the Carrier giving, as the basis for the disqualification, Lewis' inability to read and understand electrical, hydraulic and pneumatic schematics, and his inability to demonstrate to his supervisor a logical method of troubleshooting mechanical problems for the Tie Gang.

The bulletin for the position to which Claimant applied and was assigned provided, as the principal duties of the Traveling Maintenance of Way Mechanic, the following:

The successful applicant must be able to read and understand, electrical, hydraulic and pneumatic diagrams and schematics, and have a working knowledge of these systems. The applicant must have a good working knowledge of gasoline and diesel engines and be able to repair same. Applicant must have sufficient skill to make satisfactory repairs to all Maintenance of Way equipment. Applicant must be able to meet D.O.T. certification requirements

. . . .

Mr. Lewis was awarded the position in question on September 17, 1993.

The Organization insists that Mr. Lewis was unjustly disqualified in this situation. Petitioner claims that Lewis was not given proper training, not provided proper tools, and not provided sufficient time to study for the test, which he allegedly failed. Furthermore, the type of test given was not a fair test, according to the Organization, unless there was sufficient time to re-familiarize oneself with the content of the material.

Carrier notes that Mr. Lewis was given training at Carrier's Technical Training Center in 1993, and in addition, was assigned to work with more experienced mechanics to help him in his new position. With respect to the test given to Mr. Lewis, Carrier maintains that it was the same test as had been given in the past to other mechanics. Carrier indicates further that Mr. Lewis was aware that a mistake in reading the schematics and diagrams could cause excessive downtime and possible injury. The score that Mr. Lewis had on the hydraulic symbols test was 50%, and also he scored 41% on the electrical symbols test, which indicated his inability to deal with the schematics and diagrams. Thus, according to Carrier, he did not have the required knowledge to safely and efficiently repair and maintain the equipment for the gang.

From the standpoint of this Board, there are significant questions raised by the investigation of this disqualification. First, it is apparent from the testimony that this was the first time the test in question was given to any mechanic on this division of Carrier. Furthermore, in the instance of Mr. Lewis, there was absolutely no warning that the test was to be administered and it was a total surprise. This is contrary, as the Board views it, to the common practice on this Carrier of even rules tests, where employees are notified well in advance as to when the test will be given, so that they may make adequate preparation. Furthermore, there is conflicting testimony with the respect to Mr. Lewis' ability to handle the position in question. According to his supervisor as well as the Traveling Maintenance Mechanic, who was assisting in his training, he was unable to totally deal with the various aspects of his position. On the other hand, his own testimony, not denied by other information produced by Carrier, indicated that there were periods of time when he functioned alone, without any assistance from an experienced mechanic, and handled all problems of maintenance and equipment for the gang for days without difficulty. It was also apparent that this employee knew very little about railroad equipment prior to assuming the position of mechanic in accordance with the bulletin cited above. He had only had a few months' experience with the Carrier (and the industry) previously, and was, at that time, merely a track laborer. Thus, he had to

contend with not only learning railroad equipment, which he did not even know thoroughly as an operator, but also the intricacies of the mechanical problems which were involved with that equipment.

There was little information presented as to the basis for Carrier assuming that Claimant met the qualifications of the bulletin when it assigned him the position in question. There is an allusion to a test which he was given at that time, which he passed. No specifications with respect to that testing process were presented. It is the Board's view that the disqualification in this instance was based on tenuous grounds, at best. While the Claimant was afforded an opportunity to go to a training center for a brief period in the course of his short tenure as a mechanic, and was given the opportunity to work with experienced mechanics, there is no indication of whether or not any of his training on this job was adequate to meet the requirements of the position, or whether his prior experience was sufficient to at least give him basic qualifications of the position.

Under all the circumstances here, it is the Board's belief that Mr. Lewis should be given an opportunity to demonstrate whether, indeed, he has the qualifications to retain the position of mechanic. For that reason, he shall be given an opportunity to take the two tests which were involved here once again, with at least a week's notice prior to the test being administered. If the test results are satisfactory, he shall be given a 60-day trial period to function as a mechanic,

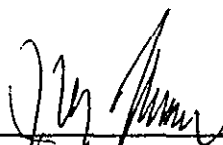
with an appropriate gang, in order to demonstrate that he can, indeed, fulfill the qualifications of the position as outlined in the bulletin. If Carrier judges that he is unable to fulfill the qualifications of the position, his disqualification will be affirmed. Otherwise, he shall be permitted to continue to function as a mechanic. Under the circumstances, no back pay will be awarded.

### AWARD

Claimant shall be given an opportunity to be tested and to demonstrate his ability as a mechanic prior to an ultimate decision being entered with respect to his qualifications.

### ORDER

Carrier will comply with the award herein within 30 days from the date hereof.



I. M. Lieberman, Neutral-Chairman

Stamford, Connecticut  
April 27, 1995

