

PUBLIC LAW BOARD NO 6103

Award No.  
Case No. 10

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees  
(Burlington Northern Santa Fe Railway (former St. Louis-  
(San Francisco Railway Company)

STATEMENT OF CLAIM:

1. The Carrier violated the current Agreement when Mr. R. L. Jones was disqualified from a position responsible to operate a CAT 931 Loader.
2. As a consequence of the Carrier's violation referred to above, Claimant should be placed back on the position from which he was removed and compensated for all earnings lost due to the disqualification.

FINDINGS

Upon the whole record and all the evidence, the Board finds that the parties herein are carrier and employee within the meaning of the Railway Labor Act, as amended. Further, the Board is duly constituted by Agreement, has jurisdiction of the Parties and of the subject matter, and the Parties to this dispute were given due notice of the hearing thereon.

Pursuant to the disciplinary rule, if an employee feels he is unjustly treated by the Carrier, he can request an unjust hearing.

Claimant had bid on and was assigned to a machine as an operator, then after being assigned, the Carrier discovered he knew next to nothing about the operation of that machine and disqualified him from that position.

Claimant believed the Carrier unjustly disqualified him without offering him sufficient training although admitting that he had had no experience in operating the equipment. The officer in charge states that in such situations he attempts to assign a qualified operator to work with and train the novice when possible, but in this instance, there was no one available, and thus, he was disqualified.

In unjust hearings, the substantial evidence rule is reversed. The employee requesting

the hearing must present evidence to substantiate his charge of being unjustly treated. The Carrier has only to defend itself.

Claimant, during the investigation, alluded to several others who lacked experience who were assigned and learned on the job, but Claimant's statements were mere assertion of facts, and without proof, they remain assertions. Claimant failed to substantiate its complaint of being treated unjustly. Under the rule, Carrier's actions were proper.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.



Robert L. Hicks, Neutral Member & Chairman  
Public Law Board 8103

Dated: April 30, 1999

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