

PROCEEDINGS BEFORE PUBLIC LAW BOARD NO. 3781

AWARD NO. 30

Case No. 96

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:

Docket No. CR-2584 - Claim of R. Stoye, for any and all amounts and benefits claimant would otherwise be entitled to, beginning December 11, 1985 and continuing account Carrier failed to permit exercise of seniority over junior Assistant Foreman B. D'Arduini, Lyons, New York.

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

This case arises on the basis of the allegations of Claimant, who is a qualified Foreman and Assistant Foreman, that the Carrier improperly and in violation of his Agreement rights denied his December 11, 1985 attempt to exercise his seniority to the position of Assistant Foreman at Lyons, New York, on the Lyons Sub-division Headquarters.

The Carrier submits that the Claimant was not permitted to exercise seniority to the subject position, because, although afforded opportunity to demonstrate his qualifications for the position, he was unable to demonstrate the qualifications to perform the administrative duties involving payroll records assigned to the position, and that on this basis the claim should be denied.

After due study of the foregoing and of the record as a whole, including the submissions presented by the parties in support of their respective positions in the case, the Board concludes and finds that the claim is not supported by the record and that in consequence, the claim must fail for lack of the requisite record support.

In reaching this decision the Board considered and found unpersuasive the Employees' contention that the record keeping duties assigned to the subject position are not outlined in the Scope Rule and thus cannot be considered necessary qualifications. Absent a specific contract restriction to the contrary, and none is shown of record in this case, the Carrier is empowered to prescribe the duties of the job in question. Third Division Award No. 12419.

In addition, the record leaves no doubt that administrative duties involving payroll records had been assigned to and performed by the incumbent of the disputed position, prior to the Claimant's attempted displacement. In order to have a valid right to displace the incumbent, the Claimant was required by the rules

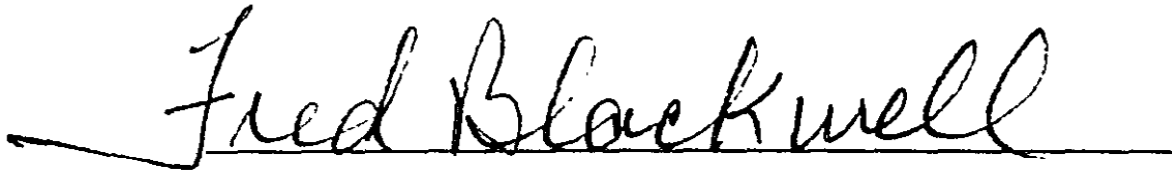
to demonstrate that he was qualified to perform the administrative duties; he failed to do so, and the Carrier's denial of his attempted displacement was in conformity with the rules. See this Board's prior Awards No. 2 and No. 3 issued on February 12, 1986.

In view of the foregoing, and in line with the referenced prior Awards No. 2 and No. 3 of this Board, the claim will be denied for lack of the requisite support.


AWARD:


Claim denied.

BY ORDER OF PUBLIC LAW BOARD NO. 3781.



Fred Blackwell, Neutral Member

  
R. O'Neill, Carrier Member

  
W. E. LaRue, Labor Member

Executed on June 5, 1989

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