

PUBLIC LAW BOARD No. 4381: Case No. 43

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

v.

BURLINGTON NORTHERN RAILROAD

STATEMENT OF CLAIM

The Claimant, Mr. A. L. Geatz was improperly disqualified from the head welder position on Joint Elimination Crew #2 on May 7, 1987.

FINDINGS

The Claimant, Mr. A. L. Geatz, established and held seniority as a welder foreman/head welder, with a seniority date of April 28, 1984. He was awarded a head welder position on Joint Elimination Crew No. 2 (a regional thermite welding gang). He performed welding work from April 14, 1987 until May 7, 1987, at which time he was disqualified by the Carrier for "... failure to perform duties in a safe and alert manner using proper procedure to fulfill the requirements of your position as Head Welder."

The Organization contends that Mr. Geatz was improperly disqualified from the head welder position because more than thirty (30) calendar days had passed since he had qualified to perform the duties of the position. Additionally, the Organization contends that the action of the Carrier constitutes the assessment of discipline, and that Mr. Geatz was denied an investigation as provided for under Rule 40. The Carrier contends that Mr. Geatz had not qualified to perform the particular type of welding in use by Joint Elimination Crew No. 2, and therefore, under the provisions of Rule 23, the Carrier properly acted within the thirty (30) day period to disqualify him.

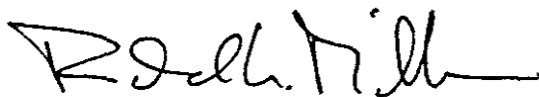
The transcript of the hearing indicates that Joint Elimination Crew No. 2 was using a welding process called a "boutet-type" weld, rather than the "orgetherm" method previously used. Two knowledgeable witnesses, Mr. Dale Johnson, Roadmaster, and Mr. Steve Heinen, Regional Manager of Welding and Grinding, testified about significant differences between the procedures. This testimony was not satisfactorily rebutted. Clearly, Mr. Geatz had to learn to perform some new and some modified procedures as a member of Joint Elimination Crew No. 2. Therefore, the Carrier properly initiated the matter of qualification under Rule 23, rather than as a matter of discipline.

The Organization has not shown that Mr. Geatz was improperly disqualified from the Head Welder position on Joint Elimination Crew No. 2. To the contrary, the record of this case contains substantial evidence in support of the disqualification. In addition to the specific testimony of Roadmaster Johnson regarding Mr. Geatz's work performance, two co-workers (also head welders) took the unusual step of writing to Roadmaster Johnson to express their concerns about Mr. Geatz's work performance. The witnesses who spoke on behalf of Mr. Geatz were not persuasive. Mr. Obregon qualified his assessment "... I did not actually work right with him" (T. #59), and Mr. Halgren spoke in general terms about Mr. Geatz's work performance "...Al Geatz seemed to do his job..." (T> #178).

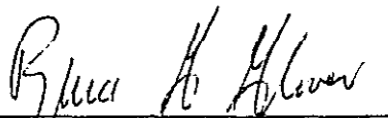
The burden of proof is upon Mr. Geatz and the Organization to support his claim with substantial evidence. The requisite proof has not been offered in this case. Mr. Geatz had been warned that his work performance was unsatisfactory, and he had sufficient opportunity to demonstrate improvement. We find no basis to set aside the disqualification of Mr. Geatz.

AWARD

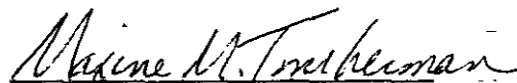
Claim denied.



Ronald L. Miller
Chairman and Neutral Member



Bruce G. Glover
Organization Member



Maxine M. Timberman
Carrier Member

27 August 1970
Date