

PUBLIC LAW BOARD NO. 7566

BROTHERHOOD OF MAINTENANCE)	
OF WAY EMPLOYES DIVISION)	
IBT RAIL CONFERENCE)	Case No. 14
)	Award No. 14
and)	
)	
CANADIAN NATIONAL/WISCONSIN)	
CENTRAL LTD.)	Claimant: A. Boothe

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood that:

1. The Carrier violated the Agreement when it did not allow Claimant A. Boothe to displace to a mechanic/loader position at the Escanaba Ore Dock based on an arbitrary specific qualification placed on the position by the Carrier (Carrier's File WC-BMWED-2010-00030 WCR).
2. As a consequence of the Carrier's violation referred to in Part 1 above, Claimant A. Boothe must be allowed to immediately displace to the mechanic/loader position at the Escanaba Ore Dock and be reimbursed at the IRS rate of \$.50/mile for all miles traveled to his assignment as a machine operator on the Trout Lake Section Crew beginning July 9, 2010 and continuing. In addition, Claimant must be compensated the difference in pay between the mechanic loader position at the Escanaba Ore Dock and his current machine operator position on the Trout Lake Section Crew for all hours worked at the applicable straight time, time and one-half and double time rate by junior employee B. Brunette or any other employee who is junior to Claimant that subsequently worked the mechanic/loader position at the Escanaba Ore Dock beginning July 9, 2010 and continuing."

Findings:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier or employee within the meaning of the Railway Labor Act as approved June 21, 1934.

Public Law Board 7566 has jurisdiction over the parties and the dispute involved herein.

Parties to said dispute were given due notice of hearing thereon.

The Organization contends that the Carrier has imposed an arbitrary Rule requiring that an employee have 18 months dock experience before an employee can displace at the Escanaba Ore Dock. The Claimant is qualified to perform the work and has the seniority to displace to the Escanaba Ore Dock. He should be allowed to displace per the Agreement. The Organization continues that the 18 month requirement was agreed as a general qualification, however, the Organization never agreed that it was a specific qualification. Under the Carrier's application of

this Rule, an employee without 18 months experience at the Ore Dock could never bid or displace to a position at that facility. The Carrier has effectively rendered a position at the Ore Dock as unattainable.

The Carrier responds that the Organization agreed to this qualification in 2007 and has been fully aware of its application since that time. The Organization has exceeded the time limits to file this claim. If there was a dispute about the qualifications, a Claim should have been filed when the qualifications were implemented. Instead, the Organization agreed to the qualifications and now, years later, files a claim disputing them.

On the merits, the Carrier maintains that the qualifications are appropriate to the position at the Ore Docks. They were agreed in 2007. Claimant does not possess the required qualifications and was properly refused displacement.

The burden is on the Organization to establish a violation of the Agreement. The Claim was filed within the appropriate time period following the refusal of his displacement. Accordingly, the Claim is timely.

On the merits, the evidence shows that the Carrier proposed the instant qualification in 2007. The Organization does not dispute that it agreed to the qualification, but characterizes that agreement as a general qualification and not a specific qualification. However, that distinction does not remove the fact that this has been a qualification since 2007.

The Carrier cites the principle that it has the right to establish qualifications and those qualifications should not be disturbed unless they were done in an arbitrary manner. The Organization has not shown how the qualification, to which it earlier agreed, is not related to the position.

Award:

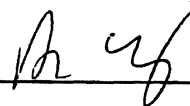
Claim denied.



Brian Clauss, Chairman



Cathy Cortez, Carrier Member



Ryan Hidalgo, Organization Member

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Signed on November 10, 2015