

SPECIAL BOARD OF ADJUSTMENT 1016

Case No. 191

Award No. 191

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE
OF WAY EMPLOYEES

-and-

CONSOLIDATED RAIL CORPORATION

STATEMENT OF CLAIM:

That the Agreement was violated when the Carrier failed to allow employee J. Thornton to displace junior employee G. Steffey on November 14, 1995. That employee J. Thornton be paid all straight time made by junior employee Steffey and all overtime credits for days and months.

FINDINGS:

This Board, upon the whole record and all the evidence, finds as follows:

That the parties were given due notice of the hearing;

That the Carrier and Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act as approved June 21, 1934;

That this Board has jurisdiction over the dispute involved herein.

Effective October 24, 1995, the Claimant was displaced from his regularly assigned Vehicle Operator position. He worked various daily vacancies as a non-incumbent until November 14, 1995, when he was furloughed. The Claimant attempted to displace I&R Foreman Steffey at Latrobe, Pennsylvania. Mr. Steffey is junior to the Claimant. The Carrier refused to allow the displacement since it did not consider the Claimant qualified to work the I&R Foreman position.

On December 18, 1995, the Organization filed a claim and/or grievance on behalf of the Claimant contending that he was qualified for the I&R Foreman position since he had worked as a Track Foreman for over a year. The Carrier denied the claim and/or grievance asserting that the Claimant may have been a qualified Track Foreman but he was not a qualified Track Inspector.

On Conrail, employees must have at least one (1) year of experience in railroad track inspection before they will be assigned to inspect track for defects. It is undisputed that the Claimant lacked the requisite one (1) year of experience in railroad track inspection. He had never demonstrated to the Carrier's I&R Supervisor that he was qualified to inspect railroad track. Therefore, Conrail had the right to decline his request to displace to the I&R Foreman's position at Latrobe, Pennsylvania.

Although the Claimant had worked as a Track Foreman for over one year the Track Foreman position and the I&R Foreman position have different duties and qualifications. Moreover, the Carrier had the right to establish qualifications for I&R Foremen on Conrail property in excess of those required by the Federal Railroad Administration.

For all the foregoing reason, the instant claim must be denied since the Carrier has demonstrated that the Claimant was not qualified for the I&R Foreman position at Latrobe, Pennsylvania to which he wished to displace.

AWARD: Claim denied.

Robert M. O'Brien
Robert M. O'Brien, Neutral Member

Roy C. Robinson
Roy C. Robinson, Employee Member

Dennis L. Kerby
Dennis L. Kerby, Carrier Member

Dated: 9/30/02