

SPECIAL BOARD OF ADJUSTMENT 1016

Case No. 193

Award No. 193

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE
OF WAY EMPLOYEES
-and-

CONSOLIDATED RAIL CORPORATION

STATEMENT OF CLAIM:

Claim that the Agreement was violated when P. Spoljaric was disqualified from his position as Repairman on April 8, 1996. Therefore, P. Spoljaric shall be reinstated to the Repairman's position on Gang SC-405 and be compensated ten (10) hours each day commencing April 8, 1996.

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.

On April 1, 1996, the Claimant was awarded a Repairman's position on Gang SC-405 at the New Castle, Pennsylvania Camp Cars. On April 8, 1996, the Claimant was advised that he was disqualified from this position.

On April 11, 1996, the Organization filed a claim and/or grievance protesting the Claimant's disqualification. It is the Organization's position that the Claimant has been a Repairman for almost 25 years. It also contends that the production equipment the Claimant was required to repair had not been repaired at the Canton Shops at the end of the previous production season. The Organization requested that the Claimant be compensated ten (10) hours' pay for each workday until he is permitted to return to Gang SC-405 as a Repairman.

On June 6, 1996, Conrail denied the claim. It also offered the Claimant the opportunity to request a "proceeding" at which his disqualification would receive a thorough review. He never made such a request, however.

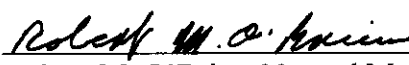
The Carrier has the managerial prerogative to determine the qualifications of its employees provided that determination is not made arbitrarily, capriciously or unreasonably. The Organization has not convinced this Board that Conrail's disqualification of the Claimant from his Repairman position on Gang SC-405 was arbitrary, capricious or unreasonable. Therefore, that disqualification must stand.

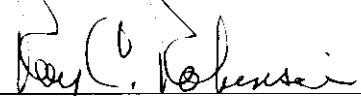
To this Board, it is noteworthy that Conrail offered the Claimant the opportunity to have his disqualification thoroughly reviewed at a "proceeding" but he never availed himself of this opportunity. Additionally, that the Claimant had worked as a Repairman for almost 25 years is of no consequence since it was determined that he lacked the qualifications to repair the production equipment being used by Gang SC-405 in April 1996.

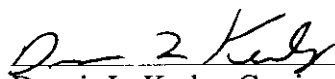
The Organization contends that the equipment the Claimant was required to repair on Gang SX-405 was in poor condition since it had not been sent to the Canton Shop at the end of the 1995 work season. However, there is no evidence that the Claimant or any other member of Gang SC-405 ever complained about the condition of their equipment. The Organization has not proven that the condition of the equipment that had to be repaired was a factor in the Claimant's disqualification.

For all the above reasons, the claim must be denied.

AWARD: Claim denied.


Robert M. O'Brien, Neutral Member


Roy C. Robinson, Employee Member


Dennis L. Kerby, Carrier Member

Dated: 4/30/02