

SPECIAL BOARD OF ADJUSTMENT 1016

Case No. 198

Award No. 198

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE  
OF WAY EMPLOYEES

-and-

CONSOLIDATED RAIL CORPORATION

STATEMENT OF CLAIM:

Claim of the System Committee of the Brotherhood that the Carrier violated the Agreement when it refused to award furloughed Trackman J. E. Poole Trackman position on the Chicago District effective May 13, 1996. As a consequence, Trackman J. E. Poole is entitled to seniority on the Chicago District and all hours from May 13 to June 21, 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 May 7, 1996, the Carrier posted Dearborn Division Bulletin No. 326 advertising numerous positions on the Chicago Seniority District of Conrail's Dearborn Division. Five (5) Trackmen positions were advertised in Bulletin No. 326. The Claimant applied for one of these positions. At the time of his application, the Claimant was a furloughed Trackman on Conrail's Cleveland Seniority District on the Pittsburgh Division. He held no seniority on the Chicago Seniority District.

On May 13, 1996, the Carrier posted the awards in Bulletin No. 326. Two of the Trackmen positions that had been advertised in the bulletin were not filled because of "No Qualified Bidders."


On June 24, 1996, the Organization filed a claim on behalf of Trackman J. E. Poole contending that he was a qualified bidder and therefore should have been awarded one of the Trackmen positions advertised in Bulletin No. 326. The Carrier denied the claim asserting that the Dearborn Division refused to accept the Claimant's bid due to his injury record.

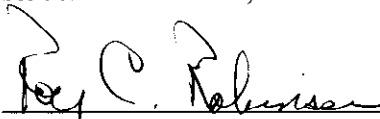
The Organization appealed the claim. On May 20, 1997, the Carrier denied the appeal arguing that the Claimant had no demand right to the Trackman positions advertised in Bulletin No. 326 since he had no seniority on the Chicago District.

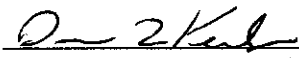
It is questionable whether Conrail has the right to reject an employee's bid based solely on the employee's injury record. However, it is not necessary to address that issue in this case inasmuch as the Claimant had no contractual entitlement to a Trackman position on the Chicago Seniority District since he held *no* seniority on that District.

Third Division Award No. 31075 between these parties held that Conrail need not accept a bidder who does not hold the proper seniority. In the instant case, the Claimant did not hold the proper seniority for one of the Trackman positions advertised in Dearborn Division Bulletin No. 326 since he did not hold *any* seniority on the Chicago Seniority District where the vacancy occurred. The claim must be denied as a result.

AWARD: Claim denied.

  
Robert M. O'Brien, Neutral Member

  
Roy C. Robinson, Employee Member

  
Dennis L. Kerby, Carrier Member

Dated: 4/30/02