

SPECIAL BOARD OF ADJUSTMENT NO. 1016

Parties  
to the  
Dispute

BROTHERHOOD OF MAINTENANCE OF WAY  
EMPLOYEES AS THE REPRESENTATIVE OF

H.V. MAGNUSON

vs.

CONSOLIDATED RAIL CORPORATION

Case No. 59

AWD.59

EMPLOYEES' STATEMENT OF CLAIM

Claim of the System Committee of the Brotherhood that:

(1) The Carrier violated the Agreement when it failed to allow Claimant Magnuson the opportunity to qualify for B&B Mechanic position in accordance with Rule 3, Section 2. (MW-716)

(2) Because of the aforesaid violation, Claimant Magnuson shall be compensated all wage loss suffered beginning July 24, 1989.

OPINION OF THE BOARD

Claimant H.V. Magnuson holds seniority in the Track Department as a Class I Machine Operator on the Alleghany B Seniority District. On August 7, 1989, Carrier

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advertised, by posting Bulletin No. 007, the position of B&B Mechanic assigned to the Showville Gang in the Alleghany B Seniority District. Claimant was not awarded the position or allowed to demonstrate his fitness and ability to qualify on the position. Instead, a B&B Mechanic from Alleghany A with no Alleghany B seniority rights was awarded the position. A claim was filed contending that Carrier had violated Rule 3, Section 2, of the Agreement. The claim was denied and has been placed before this Board for resolution.

#### RULE 3, SECTION 2

##### Section 2. Qualifications for positions.

In making application for an advertised position or vacancy, or in the exercise of seniority, an employee will be permitted, on written request, or may be required, to give a reasonable, practical demonstration of his qualifications to perform the duties of the position.

Carrier takes the position in this instance that Claimant was not a qualified bidder for the B&B Mechanic position and that he did not request an opportunity in writing to give a demonstration of his ability to perform the duties of the position.

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This Board has reviewed the record, as well as Third Division Award 27631, Referee Zusman, wherein the Referee stated that "Rule 3, Section 2, is specific as to a 'written request' which must be made in addition to the application for an advertised position."

In accordance with basic labor relations principles, this Board is compelled to follow the decision rendered by Referee Zusman in Award No. 27631. The Board is denying the instant claim based solely on the fact that Claimant did not request in writing an opportunity to demonstrate his ability. Based on the Zusman Award, this Board concludes that a request to qualify must be made in writing separate from the bid.

AWARD

The claim is denied.

R.E. Dennis  
R.E. Dennis, Neutral Member

S.V. Powers  
S.V. Powers, Labor Member

J.H. Burton  
J.H. Burton, Carrier Member

1-10-92  
Date of Approval