

Award No. 31  
Case No.

SPECIAL BOARD OF ADJUSTMENT NO. 956

PARTIES  
TO  
DISPUTE:

Brotherhood of Maintenance of Way Employees  
and  
New Jersey Transit Rail Operations, Inc.

STATEMENT  
OF  
CLAIM:

The Carrier has violated the current Scheduled Agreement, particularly Rules 3, 4, 17, and other pertaining rules, when it failed to award the position of bridge operator to Claimant H. Santamaria and refused to grant the Claimant seniority and used the junior employee for overtime on the bridge operator position for 88 hours during October and November 1985.

FINDINGS:

The Claimant was a trackman with a seniority date of November 1, 1978. In May of 1985, the Claimant placed bids on the position of bridge operator at Newark Draw Bridge as an operator. On May 28, 1985, the Carrier awarded the position of drawbridge operator to Trackman A. Buie, who had a seniority date of April 16, 1979, and 1985 the Carrier awarded the position as bridge operator to Trackman J. Burroughs, who had a seniority date of 1983.

As a result of being awarded the position of bridge operator at Newark Drawbridge on June 17, 1985, and after numerous complaints, the Carrier granted a seniority date for Claimant Santamaria senior to that of Trackman

Page 2

Burroughs. However, the Carrier refused to grant a seniority date senior to Trackman Buie.

The Claimant was the senior employee as a trackman and was in a lower class as set forth in the trackman group in accordance with Rule 1 of the Agreement.

The Organization argued that the Claimant, being the senior qualified applicant, should have been granted the position based on the rules of agreement, and likewise, should be entitled to a seniority date senior to Trackman A. Buie, which would have granted Claimant the overtime.

The Carrier, in rebuttal to the position of the Organization, maintains it has a managerial right to ascertain when the Claimant would be considered qualified and alleges that if in fact the Claimant was granted the seniority date, the Claimant would not have been entitled to the overtime but was promptly compensated.

The record establishes that neither of the arguments presented by the parties is controlling in deciding the issue in this matter.


Upon review, the record indicates tht Claimant Santamaria properly made application for every available position concerning Bridge Operator for the Raritan River to the Hoboken and Newark areas. While he was, in fact, outbid the Raritan River by an older employee, his second preference for Newark Drawbridge should have been honored. Thus, Claimant Santamaria is entitled to a seniority date senior to A. Buie on the same date ahead of A. Buie. However, the Organization was unable to bear the burden of proof ~~that~~ the Claimant was entitled to the hours claimed.

Page 3

AWARD:

Claimant shall be granted a senior date the same as A. Buie and placed on the Bridge Operator's Roster ahead and senior to A. Buie and shall be granted 25 hours' pay at the applicable bridge operator's rate of pay.

Adopted at Newark, NJ October 30, 1987.

  
Harold M. Weston, Chairman

  
Carrier Member

  
Employee Member