

SPECIAL BOARD OF ADJUSTMENT NO. 100

PARTIES) The Order of Railroad Telegraphers
)
TO)
)
DISPUTE) St. Louis Southwestern Railway Company

STATEMENT OF CLAIM:

1. That the Carrier violated terms of the Telegraphers' Agreement when and because it failed or refused to assign L. N. Gaines, Sr., the senior applicant, to the position of Agent, Fordyce, Arkansas, bulletined in Advertisement No. 11, August 24, 1956, and instead assigned to the position an applicant junior in point of service to Mr. Gaines, as shown by Assignment No. 11 dated September 17, 1956, and,

2. That Assignment No. 11 of September 17, 1956, shall now be canceled and L. N. Gaines, Sr., be assigned to the position of Agent, Fordyce, Arkansas, in accordance with the provisions of Articles 13-1 and 13-2 of the Agreement, and that on and after, Monday, September 24, 1956 - thirty days from date of bulletin - he be compensated not less than the assigned daily earnings of the Fordyce agency position, as required by Article 13-1 of the Agreement.

FINDINGS: Under the rules of the current agreement between the parties here, in making assignment to a position of agent at Fordyce, Arkansas, the Carrier has the option of determining whether or not the senior bidder, or bidders, are qualified to fill the position for which bids have been received. In this instant case the Carrier determined that Claimant Gaines was not qualified for this position.

The claimant has the privilege of showing that he is qualified. That may be done in many ways. If he is properly educated, has had sufficient experience, meets the public well and other things that go into the filling of this position may be shown by him, and having shown that, the burden would then shift to Carrier in arriving at the determination that the claimant was not qualified.

There has been no showing here on the part of the claimant that the company was capricious or prejudicial and did not base its judgment on his qualification on fact. Therefore, there is nothing before this Board to determine. The Carrier has acted and the claimant has made no showing that he is qualified or that the company was capricious in its action. Therefore, there is no basis here upon which the claim could be sustained.

AWARD: Claim denied.

/s/ Frank P. Douglass
Frank P. Douglass, Chairman

/s/ O. C. Jones
O. C. Jones, Employee Member

/s/ L. C. Albert
L. C. Albert, Carrier Member

Dissenting Employees should be given opportunity to demonstrate competency.

Tyler, Texas
December 13, 1956.

12/17/56