

SPECIAL BOARD OF ADJUSTMENT NO. 1016

Parties
to the
Dispute

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

vs.

CONSOLIDATED RAIL CORPORATION

Case No. 25

Awd. 25

STATEMENT OF CLAIM

- (1) The Carrier violated the Agreement when it assigned junior Trackman Crowley instead of Trackman M. Vodhanel to perform timekeeping work on CAT-253 Gang and compensated him therefor at the Class 2 machine operator's rate, beginning April 1, 1985.
- (2) Trackman M. Vodhanel shall be allowed the difference between what he was paid at the trackman's rate and what he should have been paid at the Class 2 machine operator's rate and overtime pay equivalent to that paid to Trackman Crowley beginning April 1, 1985 continuing until the violation is terminated.

OPINION OF THE BOARD

Claimant M. Vodhanel holds seniority as a Class 2 Machine Operator, Assistant Foreman, and Foreman, as well as a Trackman. At the time of the incident that gave rise to this dispute, Claimant was employed

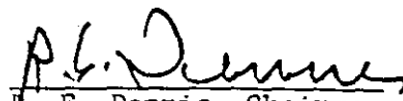
as a Trackman on Gang CAT-253. On April 1, 1985, Carrier established a Timekeeper Position on Gang-253. Claimant was not awarded the job, even though he applied for it. A less senior employee who only held Trackman's seniority was placed in the position.

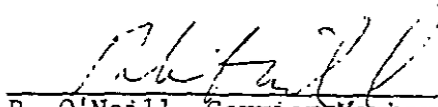
This Board has reviewed the record and we are not persuaded that Claimant was properly evaluated in terms of fitness and ability to perform the timekeeping duties given to Mr. Crawley, a less senior employee. Carrier did not give Claimant a chance to demonstrate his ability to perform the work, nor did it indicate in the record any reason why it concluded Claimant could not properly perform the job in question other than to say that Crawley could do it better.

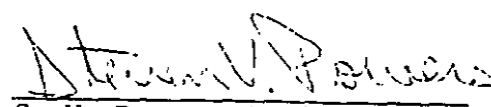
Carrier cannot arbitrarily assign less senior employees to preferential jobs without regard for seniority and fitness and ability of other available employees. Carrier must present more than just a blanket statement that the more senior employee is not qualified. It must present probative facts to support its position. It has not done so in this instance.

AWARD

The claim is sustained.


R. E. Dennis, Chairman


R. O'Neill, Carrier Member


S. V. Powers, Employee Member

4-24-90
Date of Adoption