

PROCEEDINGS BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 1016

AWARD NO. 51

Case No. 51

Referee Fred Blackwell

Carrier Member: J. H. Burton

Labor Member: S. V. Powers

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

vs.

CONSOLIDATED RAIL CORPORATION

STATEMENT OF CLAIM:

Claim of the System Committee of the Brotherhood that:

(1) The Carrier violated the Agreement when it failed to properly post Bulletin No. 40-87 and subsequently assigned junior employe B. Parsons instead of Mr. G. Sell to the B&B Foreman position advertised on Bulletin No. 40-87, effective April 27, 1987 (System Docket CR-3610).

(2) As a consequence of the aforesaid violation, Mr. G. Sell shall be allowed a B&B Foreman roster date of April 27, 1987 and he shall be placed immediately ahead of Mr. B. Parsons on the applicable B&B Foreman roster.

FINDINGS:

Upon the whole record and all the evidence, and after hearing on August 22, 1990, in the Carrier's Office, Philadelphia, Pennsylvania, the Board finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended, and that this Board is duly constituted by agreement and has jurisdiction of the parties and of the subject matter.

OPINION

The Claimant, Mr. G. Sell, was a B&B Mechanic with seniority dating from November 1, 1976, and was headquartered with his B&B Gang at Bethlehem, Pennsylvania, when, on or about April

27, 1987, the Carrier posted a job advertisement for a B&B Foreman Position.

The position was awarded to a junior Employee, Mr. B. Parsons, whereupon, Claimant Sell filed the herein claim on the basis of allegations that the Carrier failed to post the aforementioned job advertisement at the Claimant's B&B Gang Headquarters at Bethlehem, Pennsylvania; and that as a result, the Claimant was prevented from bidding on the Foreman Position that was awarded to junior Employee Parsons.

The remedy requested is that the Claimant be placed immediately ahead of Mr. Parsons on the applicable B&B Foreman seniority roster.

* * * * *

After due study of the whole record the Board concludes and finds that the preponderating evidence of record establishes that the subject job advertisement was not posted at the Claimant's Bethlehem, Pennsylvania, Headquarters; and that such lack of posting prevented the Claimant from bidding on the Foreman Position that was awarded to junior Employee Parsons.

In view of the foregoing and based on the record as a whole, the claim is found to have the requisite rule and evidentiary support and hence it will be sustained.

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AWARD:

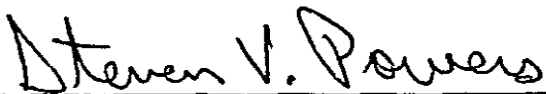
The claim is sustained as per the Opinion and the Carrier is directed to place Claimant Sell immediately ahead of Mr. Parsons on the applicable B&B Foreman seniority roster.

The Carrier is directed to comply with this award within thirty (30) days from the date hereof.

BY ORDER OF SPECIAL BOARD OF ADJUSTMENT NO. 1016



Fred Blackwell, Neutral Member



S. V. Powers, Labor Member



J. H. Burton, Carrier Member

Executed on 9-12, 1990.

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