

SPECIAL BOARD OF ADJUSTMENT NO. 280

Award No. 164
Case No. 251

PARTIES
TO
DISPUTE

Brotherhood of Maintenance of Way Employees
and
St. Louis Southwestern Railway Company

STATEMENT
OF CLAIM

- "1. Carrier violated the effective Agreement when Crane Operator Helper C.L. Warren was disqualified as a Crane Operator Helper on February 12, 1980.
2. Claimant Warren shall be reinstated to the position of a Crane Helper and the difference in the rate of pay of a Laborer and the rate of a Crane Helper beginning February 12, 1980 and continuous until the day he is placed on a position of a Crane Helper; also that all his Helper seniority be restored."

FINDINGS

Upon the whole record, after hearing, 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 under Public Law 89-456 and has jurisdiction of the parties and the subject matter.

Claimant herein, an employee of Carrier for approximately five and a half years, bid for and received the assignment of Mobile Crane Operator Helper in October of 1979. He was disqualified effective February 12, 1980 after some four and a half months on the job. Following a hearing at the Claimants request, Carrier reaffirmed its decision to disqualify him.

Petitioner asserts that Claimant's function as a Helper on the crane was adequate and that he was performing satisfactorily and hence, should not have been disqualified. Carrier, on the other hand, indicates that even after four and a half months Claimant was not qualified for the position and the evidence is substantial to validate that conclusion.

There is no question but that the hearing afforded Claimant in this instance was fair and impartial and there is no allegation to the contrary. At the hearing, there was

substantial evidence from Claimant's immediate supervisor as well as his trainer that he was having considerable difficulty even after four and a half months in operating the crane. A very important element of the Helper's duties was driving the truck portion of the crane from one location to another as well as positioning the crane so that the operator could function. The evidence is clear that Claimant had substantial difficulty in shifting gears and in other fashions operating the truck element of the crane. Carrier's conclusion that his functioning was below standard and was damaging potentially to the equipment and to the safety of others is clear and convincing. Petitioner had the burden of establishing at the hearing that Claimant was indeed qualified in spite of Carrier's contrary conclusion. There is no persuasive evidence of record to substantiate any such position by the Organization.

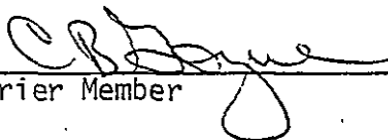
The Board must conclude that Carrier's decision to disqualify Claimant was based on substantial evidence and was neither discriminatory or unjust in any sense. Since there is no convincing evidence to support Petitioner's claim that the Claimant was able to perform the duties satisfactorily, the Board has no choice but to conclude that Carrier was justified in its conclusion that he be disqualified.

AWARD

Claim denied.



I.M. Lieberman, Neutral-Chairman



Carrier Member



Employee Member

Houston, Texas
~~August~~ 10 1981
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