

SPECIAL BOARD OF ADJUSTMENT NO. 421

THE ORDER OF RAILROAD TELEGRAPHERS                     )  
  vs                     )  
NEW YORK CENTRAL RAILROAD, EASTERN DISTRICT            )  
(except Boston and Albany Division) and                )  
NEW YORK DISTRICT    )

STATEMENT OF CLAIM:

1. Claimant J. H. Wall shall be assigned to the position of Agent at South Schenectady, N. Y.
2. Claimant shall be paid the difference in pay suffered in the rates of pay of the Guilderland Center agency position commencing August 27, 1959, until placed on Agent's position at South Schenectady.
3. Claimant shall be paid travel and waiting time and all expenses, commencing August 27, 1959, until placed at South Schenectady.

OPINION OF BOARD:

This claim was filed in protest against the Carrier's action in refusing to permit Claimant Wall, Agent at Guilderland Center, New York, to displace into the monthly rated Agent position at South Schenectady, New York. Both positions are on the Mohawk Division and are covered by the Agreement between the subject parties.

Due to the abolishment of a clerical position at Guilderland Center, Claimant Wall invoked Article 28 (a) (5) in seeking to move from his existing Agent position. Claimant was senior to the employee he sought to displace at South Schenectady. However, Carrier refused to permit Claimant to displace into the South Schenectady position on the ground that he did not possess the necessary qualifications per Article 39 (d).

The governing rule under the facts of this case is Article 39 (d), which specifically deals with the matter of qualifications that may be required in the filling of monthly rated positions. This provision is to be distinguished from Article 27 (c) which refers to the question of qualifications for positions in general. The evidence indicates that the Carrier properly exercised its judgment under Article 39 (d) in determining that Claimant Wall was not qualified for the monthly rated Agent position at South Schenectady. Claimant's greater seniority therefore did not entitle him to displace into this position.

AWARD:

Claim denied.

/s/ Lloyd H. Bailer  
Lloyd H. Bailer, Chairman

/s/ L. Faulds  
L. Faulds, Carrier Member

/s/ R. J. Woodman  
R. J. Woodman, Employee Member