

BEFORE SPECIAL BOARD OF ADJUSTMENT 924

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
and
CHICAGO & NORTH WESTERN TRANSPORTATION CO.

Case No. 232

Award No. 209

STATEMENT OF CLAIM: Claim of the Brotherhood that:

1. The disqualification as a B&B foreman of D. G. Nichols for allegedly neglecting his duties as a B&B foreman was without just and sufficient cause, capricious and inappropriate (System File 2PG-3514T; Carrier's File 81-93-54).
2. Claimant D. G. Nichols shall now be allowed the remedy prescribed in Rule 19(d).

FINDINGS:

On October 5, 1992, the Claimant had been displaced to a B&B foreman position in the Des Moines, Iowa area.

On October 27, 1992, the Claimant was working on his assignment on Bridge 51.9 in the Rake Subdivision where he was to construct a new bridge. He was observed by his roadmaster at which time the roadmaster determined that the Claimant did not know what he was doing. Subsequently, the Claimant was charged with neglecting his duties as a B&B foreman while handling his crew and his responsibilities as a foreman.

At the hearing, the roadmaster's testimony described at length his observations of

the Claimant on October 27, 1992, and how he determined that the Claimant was incapable of building a new bridge according to the Carrier's standards. The Claimant's own testimony revealed that he had never built a bridge before. Based on the testimony elicited at the investigation, the Claimant was disqualified as a B&B foreman. The discipline was appealed and denied.

The parties being unable to resolve the issue, this matter now comes before this Board.

This Board has reviewed the evidence and testimony in this case, and we find that there is sufficient evidence in the record to support the finding that the Claimant was not qualified to serve as a B&B foreman. The Claimant admitted at the hearing that he was charged with a doorknob crew and had never performed bridge construction work. The Claimant could not recall any bridge construction work that he had been involved in since 1983.

The Second Division held in Award No. 10513 that:

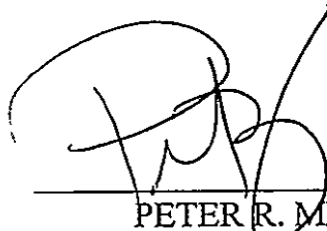
It is still clear that in order for an individual to take advantage of his rights pursuant to those agreements, a displaced employee must demonstrate to the satisfaction of the Carrier, that he possesses the necessary qualifications to displace the promoted carman helper. Without being able to show that he has the necessary skills, an individual does not have the right to the job.

Performing bridge work is one of the necessary qualifications for being a B&B foreman. This Board believes that the admissions of the Claimant, coupled with the

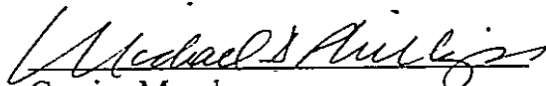
observations of his supervisor, were sufficient to justify the Carrier's action in disqualifying him from his position. Therefore, the claim will be denied.

AWARD

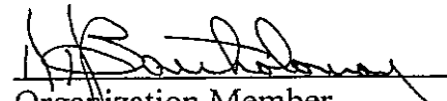
Claim denied.



PETER R. MEYERS
Neutral Member



Carrier Member



Organization Member

DATED: 1-5-95

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