

Referee Eckehard Muessig

PARTIES Horace M. Gordon, Jr.
 TO
DISPUTE: Consolidated Rail Corporation

STATEMENT Grievance/Enola
OF CLAIM: Foreman Position

OPINION This claim came about after the Carrier had awarded three
OF BOARD: bulletined jobs to employees who were junior to the Claimant.
 While there are a number of issues and aspects to this case, the
Board finds that the chief issue here is whether the Claimant, under the
controlling rule at the time that this dispute arose, would have been an
automatic bidder for the three positions.

The Carrier has raised certain procedural issues. However, the Board is of the view that this dispute can be disposed of on its merits and, accordingly, it is unnecessary to consider the procedural matters.

With respect to the merits, we find the Carrier's reliance upon the controlling Rule 3 and the construction placed upon it to be proper. Critical support for its position is contained in the first three sentences of Rule 3(c).

In applying the Claimant's situation to this Rule, the Carrier has correctly concluded that the Claimant is an automatic bidder for bulletined positions located within the former Reading Company Seniority District #0004. However, the positions in question are located within the Consolidated Rail Corporation Seniority District #0008, where the Claimant is not an automatic bidder. The three junior persons were properly considered under Rule 3 to be automatic bidders for the positions in question, since these positions were within 30 miles of the location from which these persons were originally furloughed. Under this same Rule, the Claimant had to bid for the positions. Had he so done, since he was senior to the three Foremen involved, he would have been awarded one of these positions.

In summary, given the circumstances herein, the Claimant's reasons for progressing his claim are readily understandable since, among others, he is senior to those who were awarded the positions. However, under the facts and circumstances of this record, his claim lacks contractual support and must be denied.

FINDINGS: The Fourth Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The Carrier and the Employee involved in this dispute are respectively Carrier and Employee within the meaning of the Railway Labor Act, as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

The parties to said dispute were given due notice of hearing thereon.

The parties to said dispute waived right of appearance at hearing thereon.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Fourth Division

ATTEST:


Nancy J. Devitt - Executive Secretary

Dated at Chicago, Illinois, this 18th day of July 1985.