

BEFORE THE ARBITRATOR

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 In the Matter of the Arbitration :
 of a Dispute Between :
 : Case 1
 TEAMSTERS LOCAL UNION NO. 43 : No. 45862
 : A-4796
 and :
 :
 PROMOTIONS UNLIMITED CORPORATION :
 :
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Appearances:

Mr. Charles Schwanke, Representative, on behalf of the Union.
Mr. Larry Greenfield, on behalf of the Company.

ARBITRATION AWARD

The above-entitled parties, herein the Union and Company, are privy to a collective bargaining agreement providing for final and binding arbitration before a Wisconsin Employment Relations Commission staff arbitrator. Pursuant thereto, I heard this matter on September 24, 1991, in Racine, Wisconsin. The hearing was not transcribed and, pursuant to the agreement of the parties, I there issued a "bench decision" which this Award augments.

Based upon the entire record, I issue the following Award.

DISCUSSION:

This case centers upon whether the Company improperly passed over grievant Dennis Lovett when it filled the vacant Spotter job in April, 1991 with the Union contending, and the Company denying, that it did.

Lovett, an over-the-road truck driver who spends extensive time away from home, spoke to Company representatives in April, 1991 about filling the one Spotter's job which was then being vacated by Dan Wilburn. Lovett wanted to become the Spotter even though it paid considerably less than his current job because it would enable him to spend more time at home.

The Company posted the Spotter job from April 22-24, 1991, after Lovett had expressed his interest in it. Since no bargaining unit personnel formally bid for the job, the Company awarded it to Raleigh Hillmer who came in off the street and who started his employment on or about April 25, 1991.

It is undisputed that Lovett did not formally bid for the job, which was the first ever posted under this contract; that he was on vacation during the entire week of April 22, 1991; and that he did not actually see the posting on the warehouse bulletin board where it was posted. There is a dispute, however, over exactly what transpired between Lovett and supervisor Mike Bagely when they spoke on the telephone on April 23, 1991, with Bagely contending, and Lovett denying, that he, Bagely, expressly told Lovett to contact supervisor Wayne Lazenby, the head of warehousing, if he wanted the Spotter's job, which is something that Lovett did not do.

As I stated at the hearing, it is clear that an honest misunderstanding arose over this issue and that neither the Company nor Lovett can be faulted over their actions. Furthermore, since the Company acknowledges that Lovett is qualified for the Spotter's job, Lovett certainly would have been awarded that job had he formally submitted a written bid to that effect, which is something he admittedly did not do.

Accordingly, I find that this matter should be resolved as follows:

1. Lovett is to be awarded the Spotter's job effective October 7, 1991, at which point he loses his separate driver's seniority and commences seniority in the separate yard classifications set forth in the contract.

2. The Company has the option of giving Hillmer another job in the bargaining unit without going through the posting procedure, provided only that he does not displace any present bargaining unit personnel.

3. If he wishes it, Hillmer will be given the Spotter job in the future without going through the posting procedure if it again opens up.

4. If Hillmer leaves his employment within the bargaining unit, he shall retain his seniority if he again moves back into the bargaining unit.

5. To resolve any questions which may arise over implementation of this Award, I shall retain my jurisdiction indefinitely.

In light of the above, it is my

AWARD

That Lovett should be given the Spotter job effective October 6, 1991, under the conditions noted above.

Dated at Madison, Wisconsin this 25th day of September, 1991.

By Amedeo Greco /s/
Amedeo Greco, Arbitrator