

Bocken #6

In the Matter of Arbitration Between:

EMPLOYER

AND

UNION

Arbitration Hearing: December 12, 1995

ARBITRATION DECISION

An arbitration hearing was held on December 12, 1995 at the Employer Conference Room concerning the grievance of the Employee whose bid for a full-time Terminal Agent position was not accepted by the Employer.

ISSUE

1. Did the Employer violate Article IX, Seniority, paragraph B, and Article X, Vacancies, paragraph C, when it did not accept his bid form, because it was a copy and not an original, thereby depriving him of a position as a full-time Terminal Agent.
2. If the Employer erred, what should be the remedy?

EMPLOYER POSITION

The Employer's practice is to require original bid forms, not copies, to be submitted to the Employer. Article X, paragraph C, provides that:

"An employee is responsible for bidding for a vacancy and must submit his bid in writing to the Human Resources Department, and must file a copy of the bid to the Union office."

The Employer interpreted the provision to require an original bid form to be submitted.

The Job Opportunities Bulletin dated April 29, 1992 announced employment policy updates and changes. Included in the Bulletin was a notification that "Employees who are interested in filling full-time vacancies must submit the original bid to the Human Resources Department as provided for under Article X of the Agreement. Copies should be sent to the Union Office, Shop Steward, and Department Manager."

The Employer's Notification of Vacancy for the full-time Terminal Agent position dated June 14, 1993, to which the Employee responded, stated that "interested qualified employees must submit a written bid to Employer, Personnel Department, not later than midnight June 21, 1993. A copy of such bid is to be sent to the Union Representative."

As an example of past practice that the Employer followed the "original only" bid policy, two exhibits were introduced reflecting the rejection of bids, because in one case an original bid was not submitted to the Human Resources Department, and the other bid was rejected because it was not an original and was not signed.

UNION POSITION

The Employee was senior to the employee receiving the full-time Terminal Agent position, and there was no justification for rejecting the Employee's bid as the bid was identifiable and the same as the original.

Further, two Shop Stewards and the Union Committee Chairperson testified that they considered copies of bid forms to be the same as originals.

As to knowledge of the policy expressed in the April 29, 1992 Bulletin that an original bid form must be submitted to the Employer, the Union contended that the City 1 Station had not posted the April 29, 1992 Bulletin, and the Employee was unaware of the policy.

DISCUSSION

On June 14, 1993, the Employer posted a Notification of Vacancy for a Terminal Agent position. Several persons bid for the job including the Employee. However, the Employee's bid was not considered because it was not an original. Also, the Employee's signature on the bid form copy was illegible.

As a consequence of the Employee's bid rejection, an applicant with less seniority than the Employee was selected for the position.

The Notification of Vacancy stated that "Interested qualified employees must submit a written bid to the Employer, Personnel Department, not later than midnight June 21, 1993. A copy of such bid is to be sent to the Union Representative..." The instruction in the vacancy notice tracks the requirement contained in Article X, paragraph C of the Bargaining Agreement.

While the Employer's Bulletin 92-054 dated April 29, 1992 made it clear that employees interested in filling full-time vacancies must submit the original bid to the Employer, with copies to the Union and the Department Manager, witnesses for the Union testified that they did not see the Bulletin nor were they aware of the requirement.

The Employer introduced evidence that it consistently rejected bids which were not originals. One "copy" bid was rejected December 31, 1992 and another on January 28, 1993.

The evidence is not convincing that Bulletin No. 92054 was posted at the City 1 Station. However, there was irrefutable evidence of past practice by the Employer in rejecting bids which were not originals. While certain witnesses for the Union testified that they considered copies the same as originals, no evidence was introduced to establish that the Employer had accepted copies in awarding bids.

Certainly the Bargaining Agreement language contained in Article X, paragraph C as well as the Notification of Vacancy to which the Employee responded, supports the Employer's position that the bid submitted by the employee must be an original. In this case, the Employer's position is further supported by the fact that the Employee's signature is illegible. While the Employee's employee number was noted on the bid form, the Director of Human Resources testified that as his department receives many bids for many different jobs throughout the system, it is too time consuming to check payroll employment numbers to identify a person submitting a bid form with an illegible signature.

It is unfortunate that the Employee missed an opportunity to obtain a full-time position. However, whenever such an important opportunity arises, care should be exercised to make sure that the Employer's bid requirements are followed.

AWARD

The grievance is denied.