

The Second Division consisted of the regular members and in addition Referee T. Page Sharp when award was rendered.

Parties to Dispute: (Brotherhood Railway Carmen of the United States
(and Canada
(
(South Buffalo Railway Company

Dispute: Claim of Employees:

1. That the South Buffalo Railway Company's misapplication of the provisions contained in Pension Agreement between South Buffalo Railway Company and United Steelworkers of America and Pension Benefits for Eligible Hourly Paid Employees of South Buffalo Railway Company a Subsidiary of Bethlehem Steel Corporation is discriminatory in nature.

2. That the South Buffalo Railway Company's action of allowing United Transportation Union (U.T.U.) represented employees, to retire, without waiting for a break in service as provided in some pension plans; and not allowing the same application of provisions to members of Brotherhood Railway Carmen of the United States and Canada represented employees (Carmen) is discrimination.

3. That the South Buffalo Railway Company's contention that U.T.U. positions are being abolished thereby establishing retirement eligibility, under some retirement plans and not allowing the same provision application to be extended to include Carmen and Carmen Helpers is viewed as ambiguous misapplication of pension benefit plans and discriminatory in nature, wherein it creates two (2) kinds of employees within the same employing company, they being, a privileged or first rate employee (U.T.U. members) and an under privileged or second rate employee (Carmen and Carmen Helpers).

4. That the agreement signed January 31, 1984 between South Buffalo Railway Company and United Transportation Union, Lodges 1034 and 1585, allows the discriminatory application of the 70/80 Pension Plan.

FINDINGS:

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

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employes 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.

Parties to said dispute waived right of appearance at hearing thereon.

Pursuant to an Agreement with the United Transportation Union, the Carrier reduced the consist of yard crews to one Conductor and one Brakeman and eliminated the position of Fireman. Because the Agreement gave the Carrier financial relief, the Carrier permitted any eligible Fireman to retire under its Supplemental Pension Plan.

The Carman Organization filed the current Claim alleging discrimination because its members were not given the same option as the Firemen. However, the Claim does not point to any provision of any Agreement that would enable this Board to address the wrong, if any.

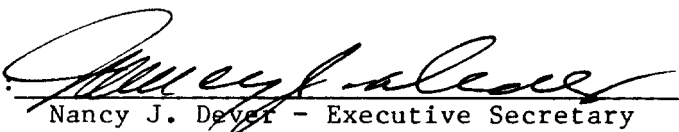
We find that this Board has no jurisdiction to entertain this Claim.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois this 1st day of July 1987.