

Award No. 6038

Docket No. 5848

2-N&W-EW-'70

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

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

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 16, RAILWAY EMPLOYES'
DEPARTMENT, A. F. OF L. — C. I. O. (Electrical Workers)**

NORFOLK AND WESTERN RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYES:

1. That the Norfolk & Western Railway Company violated the current agreement when it refused to abolish the positions held by Lineman D. E. Doster and Maintainer H. M. Mueller when the Norfolk & Western Railway changed their headquarters from Fort Wayne, Indiana to New Haven, Indiana.

2. That accordingly, the Norfolk & Western Railway Company be ordered to compensate Lineman D. E. Doster and Maintainer H. M. Mueller at the time and one-half pay for each day beginning December 18, 1967, that they are required to work away from their headquarters, and to compensate them for the purchase of their meals while away from headquarters.

EMPLOYES' STATEMENT OF FACTS: Lineman Doster and Maintainer Mueller, hereinafter referred to as the claimants, are regularly employed by the Norfolk & Western Railway, hereinafter referred to as the carrier in the communication department.

The claimants have been regularly employed by the carrier with common headquarters at Fort Wayne, Indiana until December 18, 1967, when the carrier notified them of a change in headquarters from Fort Wayne to New Haven, Indiana.

As a result of carrier's unilateral action of "assigning" the claimants a new headquarters point, the claimants have been denied the opportunity to exercise their seniority rights as provided in Rule 11, reading:

"In case of a reduction in force or the abolishment of a position, employees affected shall be allowed to exercise their seniority in displacing junior employees. Employees will exercise their dis-

jobs as those here in question **have not** always, by past practice, been bulletined.

Therefore, carrier has shown ample reason for your board to deny this case and it asks that you so decree.

CONCLUSION:

Carrier has shown that:

- I THE OCTOBER 16, 1964 MEMORANDUM AGREEMENT IS NOT APPLICABLE TO CLAIMANTS IN THIS DISPUTE.
- II THE CLAIM BEFORE YOUR BOARD HAS BEEN ALTERED AND IS NOT THE CLAIM PRESENTED ON THE PROPERTY.
- III EMPLOYES' CLAIM IS NOT SUPPORTED BY THE CITED RULE OF THE CURRENT AGREEMENT.
- IV EMPLOYES' CLAIM IS NOT SUPPORTED BY PROBATIVE EVIDENCE, FACT, OR PAST PRACTICE.

Therefore, the claim in this docket is entirely lacking in either merit or agreement and carrier requests that it be dismissed and if not dismissed, it should be denied.

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

The carrier or carriers and the employee or employees 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.

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

Carrier's Ft. Wayne depot was condemned and all buildings in that area were subsequently razed. On December 18, 1967, Claimant Doster was assigned a headquarters in New Haven, Indiana. At the same time, Maintainer H. M. Mueller was assigned a headquarters 4.4 miles from the former depot in Carrier's Fort Wayne Yard. The Organization submits that as a result of Carrier's action of assigning Claimants to a new headquarters point, Claimants were denied their right to exercise their seniority rights as provided in Rule 11 as well as their right to exercise their seniority on the newly created positions pursuant to Rule 34; and that Carrier has wrongfully refused to reimburse Claimants for their actual necessary expenses while away from their headquarters point (Ft. Wayne) in accordance with Rule 35 of the Agreement. In response, Carrier states that the Organization has progressed this claim under the October 16, 1964 Memorandum Agreement which is not applicable to the named Claimants; that the claim was wrongfully progressed under the original Agreement and has been altered to come under the October 16, 1964 Memorandum Agreement, and is, therefore, not the same claim presented on the property; that the claim is not

supported by any of the rules in the current Agreement; and that the claim is not supported by probative evidence, fact, or past practice. Carrier, therefore, requests that this claim be dismissed or, in the alternative, that it be denied.

From the record, the Board finds that the Carrier has waived its right to raise the procedural issues at this time for the reasons that the objections relied upon by Carrier were not discussed on the property. Therefore, this dispute will be resolved on its merits.

The facts disclose that Carrier's antiquated depot in Downtown Ft. Wayne, Indiana was condemned and a new Division Office Building was opened on the outskirts of Ft. Wayne, Indiana. The Organization maintains that because of the movement of the Headquarters, the involved positions should have been rebulletined for the reason that the change of address brought on a creation of new jobs. This contention is not well taken. The move from one building to another was within the same seniority District and that Board has held that an employee can be required to perform service within this Seniority District as needed. Award 3144 (Whiting), Award 3208 (Ferguson), Award 3337 (Bailer), and Award 3458 (Murphy).

Also, this Board can find no rule prohibiting the change of address of a Headquarters within a Seniority District and requiring the abolition of all personnel working out of all Headquarters when the address is changed within the Seniority District. The record discloses that the movement of Headquarters involved only a very short distance. There being no contractual agreement prohibiting the movement of Headquarters within a Seniority District and no contractual requirement of rebulletining of jobs for personnel working out of the old Headquarters, none will be implied.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 17th day of November, 1970.