

The Second Division consisted of the regular members and in addition Referee Robert M. O'Brien when award was rendered.

Parties to Dispute: (System Federation No. 6, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Carmen)
(The Baltimore & Ohio Chicago Terminal Railroad Company

Dispute: Claim of Employees:

1. That the Baltimore and Ohio Chicago Terminal Railroad Company, hereinafter referred to as the Carrier, violated Rule 12, paragraph (c) when they failed to bulletin a new job at Forest Hill North Gate first shift 8:00 a.m. to 4:00 p.m.
2. That the Carrier be ordered to bulletin the new job in compliance with the Agreement rule No. 12.

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.

On October 5, 1972 Carrier opened the so called North Gate at its Forest Hill facility. That facility consisted of the North Gate, the South Gate and the Yard. After Carrier opened the North Gate it advertised for a Car Inspector to work there on the second shift. However, Carrier did not bulletin a job on the first shift to cover the work at North Gate. Instead, Carrier selected a Carman who was working the first shift at Forest Hill and transported him by truck to the North Gate. Then at the end of his shift he is transported back to the shop quitting point. It is the Organization's position that when Carrier opened the North Gate they created two new Car Inspector jobs. However, they only bulletined one of these jobs, on the second shift, and their refusal to bulletin the job on the first shift, they contend, constitutes a violation of Rule 12(c) of the applicable Agreement between the parties.

Carrier denies that it has created a new job on the first shift at North Gate. Rather, they maintain that Carmen may be required to perform work at any location within the Forest Hill facility, and since the first shift force at Forest Hill was sufficient to cover operations at North Gate during that shift, Carrier did not establish an additional position on the first shift.

Rule 12(c), relied on by the Organization, prescribes how positions will be bulletined "When new jobs are created or vacancies occur." The Rule does not require that positions be established, but only applies when new jobs are created or vacancies occur. Thus, before a violation can be established in the claim at bar, it must be shown that Carrier created a new job at North Gate on the first shift, yet refused to bulletin that job as provided for in Rule 12(c). This Board finds that such was not the case.

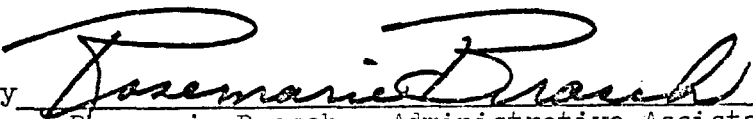
The record reveals that the North Gate, South Gate and the Yard are all within Carrier's Forest Hill facility and comprise one seniority point. And no provision can be found in the Agreement precluding Carmen from performing work reserved to their craft at any point within this facility. Furthermore, there is no indication that the Carmen forces were either increased or decreased on the first shift at Forest Hill. From the foregoing, we are persuaded that no new position was created on the first shift at the North Gate. And since no new job was created, no bulletin was required, and Rule 12(c) was not violated. All Carrier did was to rearrange its Carmen on the first shift at Forest Hill consistent with the Seniority and other Rules of the Agreement. We can find no prohibition in the contract precluding Carrier from taking the action it did and we shall, therefore, deny the claim.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By 
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 18th day of February, 1975.