

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 10932
Docket No. 9944
2-CRC-EW-'86

The Second Division consisted of the regular members and in addition Referee Lamont E. Stallworth when award was rendered.

Parties to Dispute: (International Brotherhood of Electrical Workers
(Consolidated Rail Corporation

Dispute: Claim of Employees:

1. That under the current Agreement, the Consolidated Rail Corporation (Conrail) improperly assigns communications and radio work to others, following transfer of the Danville Secondary Track, also Fowler and Sheldon Secondary Tracks from the Southern Region to the Western Region effective January 1, 1981.

2. That accordingly, the Consolidated Rail Corporation (Conrail) be ordered to additionally compensate District Linemen H. M. Faulk and D. K. Edwards; Gang Linemen - Gang No. 11 - D. Gross, J. T. Marsee, J. R. Paddick, E. D. Hammond; and Radio Maintainers E. L. Bean and L. L. Hawkey; on an equitable basis for any and all communications service and maintenance (to include polelines, wires, telephone and radio) work performed by others not authorized under the Agreement to be so assigned, from January 1, 1981 and continuously thereafter until all such work is restored to the employees to whom it properly belongs under the Agreements, particularly the Claimants.

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 employees 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.

This dispute centers on Carrier's reorganization of work from one Carrier Region to another, and its concurrent reassignment of which employee seniority district shall perform that work.

The issues became particularly complex because of the consolidation of a number of railroads and Agreements and Unions into CONRAIL.

The relevant portions of the Agreement involved are:

"Agreement Effective May 1, 1979, Appendix C.

"3. The implementing Agreements of July 23, 1975 and March 11, 1976 (as amendment March 28, 1976), except Article VII, between the International Brotherhood of Electrical Workers and Consolidated Rail Corporation remain in effect.

8. Pending resolution of the cross representation problem, this Agreement shall apply to Communication Department employees represented by the International Brotherhood of Electrical Workers except their rates of pay, basis of pay and seniority and other special rules shall remain unchanged. (Emphasis added).

March 11, 1976 Agreement

I.A. The existing seniority districts and rosters for employees in the electric traction and communication departments will remain in effect upon conveyance.

I.B. The term 'prior seniority district' as used in this agreement refers to the point, location, division or territory covered by the employee's prior seniority roster.

October 1, 1979 Agreement

1. All existing Radio maintainer seniority rosters shall be dovetailed into a single Conrail system seniority roster. Prior rights shall be maintained to positions headquartered within the territory of a prior right district. In establishing this roster the principle of the March 11, 1976 Implementing Agreement shall be followed."

Carrier asserts its right to reorganize its Regions, and the work of those regions. We find nothing that removes that right as it relates to the management of Carrier's property. However, reorganization of Divisions and geographic territories in terms of Carrier's method of supervision and management is an issue entirely separate from seniority rights to specific work at specific locations.

In that regard, Carrier entered into very detailed and complex agreements with the Organization recognizing historic relationships between specific work, locations of that work, and the seniority district and even people within that seniority district who have the right to perform that work.

Thus, if Carrier decides that the Danville, Fowler, Sheldon Secondary Tracks are to be transferred from the Southern Region to the Western Region, it has the managerial right to do so. It does not, however, have the unilateral right to automatically change the coverage of the Seniority Districts involved. If Carrier had that right, there would be little point in reaching agreements dealing with seniority districts. In fact, Carrier acknowledges that it does not have such a right by virtue of the elaborate seniority Agreements it did reach. Therefore, since these geographic areas (Danville, Fowler and Sheldon Tracks) covered work and people which is under the coverage of the Southern Region Seniority District that work must remain under that District and be filled by the people with an historic right to it until changed by Agreement between the Carrier and the Organization, in accordance with the procedures of the Agreement and the Railway Labor Act.

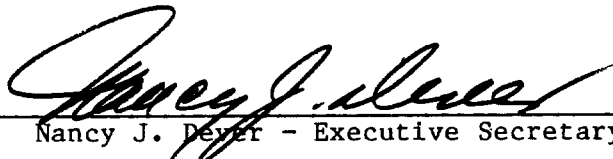
The Organization names specific Claimants who have a seniority right to have performed this work. The Organization does not make it clear that these individuals have suffered any financial loss or other harm as a result of the Carrier's actions. This should not be a difficult matter to establish, since Carrier's records should so indicate.

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 23rd day of July 1986.