

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Dudley E. Whiting, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN OF AMERICA
JACKSONVILLE TERMINAL COMPANY

STATEMENT OF CLAIM: 1. That the Carrier violated the agreement when it laid Mr. A. W. Dutton off his assignment on first shift, 8:00 A. M. to 4:00 P. M. June 16, 1948, in order to fill a vacancy on second shift from 4:00 P. M. to 12:00 Midnight.

2. That Mr. A. W. Dutton be paid at straight-time rate for his assigned hours 8:00 A. M. to 4:00 P. M. June 16, 1948, when he was required to lay off that assignment to work a vacancy on second shift from 4:00 P. M. to 12:00 Midnight.

EMPLOYES' STATEMENT OF FACTS: On June 7, 1948, the claimant, A. W. Dutton, was displaced from his regular position of Signal Maintainer on second shift, working from 4:00 P. M. to 12:00 Midnight. Because of being displaced and in accordance with agreement rules, he asserted his rights to a position of Assistant Maintainer at "MA" tower on the first shift, with working hours from 8:00 A. M. to 4:00 P. M.

After asserting displacement rights to the position of Assistant Maintainer but prior to the actual displacement, the claimant was directed to work a temporary vacancy of Signal Maintainer, with working hours from 8:00 A. M. to 4:00 P. M. on June 7 to June 14, 1948, inclusive.

On June 14, 1948, Bulletin J-19 created a position of Signal Maintainer with assigned hours from 8:00 A. M. to 4:00 P. M., which the claimant was directed to fill during the bulletin period.

On June 15, 1948, Signal Supervisor F. L. Brownlee directed Dutton not to report on the morning of the 16th at 8:00 A. M., the regular starting time of his assignment, but to report at 4:00 P. M. of the same day to fill a temporary position of Maintainer on second shift.

When the claimant was used to fill the temporary vacancy on the second shift on June 16, he did not report at his regular starting time. He was directed to start work at 4:00 P. M. instead of his regular starting time at 8:00 A. M.

There is an agreement in effect between the parties in this dispute which governs rates of pay, hours of service, and other working conditions of the claimant, bearing effective date of April 1, 1948, which is by reference made a part of this dispute.

The Carrier did not blank any assignment on this date, but it had that right to do so, if a vacancy was caused by filling another vacancy.

In summary, the Carrier has never received at any time a complaint, protest, or claim from Mr. Dutton, the General Chairman, or any member of the General Committee for June 16, 1948, as provided under Rules 54 and 63 of the existing agreement.

Mr. Dutton was being used in temporary service to fill positions in a higher class and had not been released from that service on June 16, 1948, therefore, there is no basis for this claim.

The action of the Carrier, made the subject of this claim, was taken at the request of and with the consent of, the General Chairman and General Committee and no complaint, protest, or claim has ever been received from the claimant, the General Chairman or any member of the General Committee, as provided under Rules 54 and 63. In progressing the claim to the Third Division, Vice-President Gregg is, therefore, attempting to repudiate understandings reached with the General Chairman and General Committee.

Mr. Dutton was properly compensated for work performed June 16, 1948 under the existing agreements.

There was no violation of existing agreement by the Carrier.

The claim is totally without merit and should be denied.

OPINION OF BOARD: The Organization bases its claim upon the theory that the claimant was assigned to an Assistant Signal Maintainer position with hours of 8 A. M. to 4 P. M. by virtue of his notice of desire to exercise his seniority thereto dated June 4, 1948, when he was being displaced as a Signal Maintainer. However prior to the actual displacement it appears undisputed that at the request and with the approval of the General Chairman of the Organization the claimant was assigned to fill vacancies in Signal Maintainers positions, due to vacation periods, on the first shift June 7th to 14th and on the second shift June 16th to 27th instead of displacing the Assistant Signal Maintainer. Such action conforms with Rule 32(a).

Hence it appears that the claimant was scheduled to work 4 P. M. to 12 Midnight on June 16th. Thus there is no basis for the claim.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the Carrier and the Employee involved in this dispute are respectively Carrier and Employee within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. I. Tummon
Acting Secretary

Dated at Chicago, Illinois, this 3rd day of October, 1951.