

Award No. 11704

Docket No. SG-11247

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Nathan Engelstein, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

LOUISVILLE AND NASHVILLE RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Louisville and Nashville Railroad Company that:

(a) The Carrier violated the current Signalmen's Agreement, as amended, especially Rule 46, when it failed to advertise and fill a vacancy that was created on or about July 15, 1957, when Signalman G. D. Spence was granted sick leave.

(b) The Carrier now assign Mr. W. C. Peterson a seniority date in the Signalman class as of the date Mr. Spence vacated his Signalman position.

(c) The Carrier now compensate Mr. W. C. Peterson the difference between the Signal Helper and Signalman rate of pay from date of the vacancy until it was properly filled under Awarding Bulletin No. 1351 of January 28, 1958. [Carrier's File: G-301-5, G-301, G-364]

EMPLOYEES' STATEMENT OF FACTS: On or about June 26, 1957, Mr. G. D. Spence was granted a 30-day leave of absence, because of illness, from his permanent Signalman position on Gang No. 7. Mr. Spence requested an extension of his leave beyond the 30 day limit, which required the Carrier to bulletin the position as temporary, as provided for in Rule 46 of the Signalmen's Agreement. Instead of bulletining the position, the Carrier issued a notice on Bulletin No. 1311 of July 15, 1957 stating that the temporary position caused by Mr. Spence's sick leave was being abolished, as a temporary position only. Mr. Spence later returned to work and was placed on his position on Gang No. 7, but finding that he could not work because of his condition, he requested and was granted a 90-day leave of absence. Then, on Bulletin No. 1347, dated January 15, 1958, the Carrier advertised Mr. Spence's position as temporary. As the Carrier had failed to fill the vacancy caused by Mr. Spence's leave of absence, as provided for in Rule 46, Mr. Tom McCamy, General Chairman, presented a claim to Mr. C. S. Cates, General Signal Construction Foreman, on February 7, 1958, as follows:

"There appears to be a discrepancy in regard to the case involving the Signalman's vacancy created by Mr. J. D. Spence who was

All matters referred to herein have been presented, in substance, by the carrier to representatives of the employees, either in conference or correspondence.

OPINION OF BOARD: The Board holds that employe has not complied with Section 1 (a) of Article V of the August 21, 1954 Agreement of the parties.

The claim presented in writing on February 7, 1958 alleged that the Agreement was violated by Carrier on July 15, 1957. More than 60 days elapsed from the date of the occurrence on which the claim was based.

From the above facts, the Board concludes that the claim is barred. See Awards 8564 and 9189.

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

That the parties waived oral hearing;

That the Carrier and the Employees involved in this dispute are respectively Carrier and Employees 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 claim is barred.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 9th day of August 1963.