

Award No. 12336
Docket No. SG-11607

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Nathan Engelstein, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN
CHICAGO GREAT WESTERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Chicago Great Western Railway that:

(a) The Carrier violated and continues to violate the current Signalmen's Agreement by not bulletining the Signal Inspector's position at Oelwein, Iowa, formerly held by Mr. G. L. Grimley.

(b) The position of Signal Inspector at Oelwein, Iowa be bulletined as provided in Rule 57 (a) and 58 (a) of the current Signalmen's Agreement. [Carrier's File: S-5]

EMPLOYEES' STATEMENT OF FACTS: On or about July 1, 1958, Mr. G. L. Grimley, Signal Inspector with assigned headquarters at Oelwein, Iowa, was promoted to the position of Signal Supervisor, leaving a vacancy on the Signal Inspector position.

On July 15, 1958, Local Chairman H. E. Van De Walker wrote Chief Engineer A. E. Smith and requested that the position of Signal Inspector at Oelwein, Iowa, be bulletined on account of the position being vacated as a result of Mr. Grimley's promotion.

Under date of July 17, 1958, Chief Engineer Smith wrote Local Chairman Van De Walker, as follows:

"Referring to your letter of July 15, 1958, requesting that we bulletin position of Signal Inspector on account of promotion of Mr. G. L. Grimley.

The position of Signal Inspector, formerly filled by Mr. Grimley, has been abolished and, therefore, will not be bulletined."

In view of the fact that the Signal Inspector position had not been abolished, Local Chairman Van De Walker again wrote Chief Engineer Smith, as

2. Under The Railway Labor Act, The National Railroad Adjustment Board, Third Division, Is Required To Give Effect To Said Agreement And Decide The Present Dispute In Accordance Therewith.

It is respectfully submitted that the National Railroad Adjustment Board, Third Division, is required by the Railway Labor Act to give effect to said Agreement, which constitutes the applicable Agreement between the parties and to decide the present dispute in accordance therewith.

The Railway Labor Act, in Section 3, subsection (i), confers upon the National Railroad Adjustment Board the power to hear and determine disputes growing out of "grievances or out of the interpretation or application of agreements concerning rates of pay, rules or working conditions." The National Railroad Adjustment Board is empowered only to decide the said dispute in accordance with the Agreement between the parties to it. To grant the claim of the Employees in this case would require the Board to disregard the Agreement between the parties hereto and impose upon the Carrier conditions of employment and obligations with reference thereto not agreed upon by the parties to this dispute. The Board has no jurisdiction or authority to take any such action.

CONCLUSION

Carrier has established that there has been no violation of the applicable Agreement, and Petitioner is not entitled to relief claimed.

Therefore, Carrier respectfully requests that this Board deny the claim of the Employees in this matter.

(Exhibits not reproduced.)

OPINION OF BOARD: In view of our decisions holding that the Board has no power to restore positions, part (2) of the claim cannot be sustained. It follows that a decision as to the merits of part (1) of the claim would be academic. The claim will, therefore, be dismissed.

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

Claim is dismissed in accordance with opinion.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 13th day of March 1964.