

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

John J. McGovern, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS
GULF, COLORADO AND SANTA FE RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Gulf, Colorado & Santa Fe Railway that:

1. The Carrier violated the Agreement between the parties when, beginning April 14, 1958, it failed and refused to recognize the seniority rights of Mr. J. M. Finck, Jr., senior qualified employe occupying a position in Class 1 at Galveston, Texas, desiring to move-up, and assigned Mr. C. W. Conley to perform work as Manager-Wire Chief at Galveston, Texas, commencing April 14, 1958; and

2. The Carrier shall be required to pay Mr. J. M. Finck, Jr., the difference between the rate of pay of the 7:30 A. M. to 3:30 P. M. Day Wire Chief position and the rate of pay of the 8:00 A. M. to 4:00 P. M. Manager-Wire Chief position, plus 30 minutes at the overtime rate for each day work performed between 7:30 A. M. and 8:00 A. M. beginning April 14, 1958, and continuing as long as the violation exists; and

3. The Carrier shall be required to pay Mr. C. W. Conley for 8 hours at the overtime rate for work performed each Saturday and 8 hours at the pro rata rate for each day held off his regular position, plus actual expenses incurred when assigned to the 8:00 A. M. to 4:00 P. M. Manager-Wire Chief position at Galveston, Texas, beginning April 14, 1958, and continuing as long as the violation exists.

EMPLOYEES' STATEMENT OF FACTS: An Agreement between the parties, bearing effective date of June 1, 1951, is in evidence.

Page 93 of the current Agreement shows the following:

"Temple, "BM"	Manager-Wire Chief	458.64 Mo.
	Night Wire Chief	2.08
	Late Night Wire Chief.....	2.045

OPINION OF BOARD: The facts giving rise to this case are identical to those contained in TE-11530, Award No. 12825. The principal Claimants in both cases base their claims on the fact that each was the senior qualified employe in point of Class 1 seniority and, accordingly, each should have moved up to the position of Manager-Wire Chief at Galveston, Texas. In TE-11530, Award No. 12825, the claim started after the expiration of ninety days, whereas in this case, it runs from the beginning of the regular incumbents' leave of absence. We are asked, however, to interpret the same two sections of the basic Agreement insofar as they relate to the facts. The same principal issue is involved, that is, whether the Carrier had the right of selection in accordance with Section 7-c-1 of Article XXI, or whether the organization is correct in maintaining that the position should have been bulletined and awarded to the senior qualified applicant in point of Class 1 seniority. Our interpretative opinion of Article XXI, Sections 7-c-1 and 10-a, as contained in TE-11530, Award No. 12825, is controlling in this case. The position of Manager-Wire Chief, Galveston, was one of five specifically designated positions which, in accordance with the agreement, were to be selected by the Carrier. We would do violence to the plain intent and meaning of this contract if we were to sustain these claims. We adopt the interpretation of the Agreement as contained in TE-11530, Award 12825, and consequently deny the claims.

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 Employes involved in this dispute are respectively Carrier and Employes 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: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 6th day of August 1964.