

Award No. 13208
Docket No. SG-12681

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION
(Supplemental)

John J. McGovern, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Chicago, Rock Island and Pacific Railroad Company:

In behalf of Mr. Dick Carr for an equal amount of time and pay received by any new employe hired in the Signal Department subsequent to May 31, 1960, account of the Carrier's failure to comply with Rule 76 of the current Signalmens' Agreement. This claim to run until such time as Mr. Dick Carr is put to work in compliance with Rule 76 of the current Signalmens' Agreement. [Carrier's File No. L-130-195].

EMPLOYES' STATEMENT OF FACTS: This dispute involves Rule 76 of the current Chicago, Rock Island and Pacific Railroad Company Signalmens' Agreement, which provides that the Carrier will give preference to sons of employes in their selection of new employes hired for work in the Signal Department covered by the Scope Rule of the Signalmen's Agreement.

On April 11, 1960, Mr. Dick Carr, the son of Mr. Tom Carr, a Rock Island signal employe for 45 years, wrote Mr. R. A. Watkins, General Chairman of the Brotherhood of Railroad Signalmen requesting that he be given consideration for a job on the Rock Island Railroad after he finished college on May 31, 1960.

In accordance with Mr. Dick Carr's request, General Chairman Watkins wrote Mr. H. Jensen, Signal Engineer, under date of April 13, 1960, as follows:

"On April 11, 1960, Dick Carr wrote me a letter and advised me that his dad (Tom) worked for the Rock Island for 45 years and that he would like to work in the Signal Department this summer.

He will have completed one year of college in the Wichita University on May 31, and advised that he would appreciate any consideration that you would give him for a job this summer.

His address is: 1749 North Yale, Wichita 8, Kansas."

rier", as provided for in Section 3, First (i) of the Act and, consequently, your Board has no jurisdiction over the subject matter of the controversy.

There is no language contained in Rule 76, quoted in Carrier's Statement of Facts which makes it mandatory upon the Carrier to hire each and every "son" of an "employee" as the Organization is contending in the instant case. We also wish to call your Board's attention to the fact that there is no penalty provided in the above rule should preference not be given.

Inasmuch as petitioner's father, Tom Carr, died on June 26, 1953, he had no employee status as of May 31, 1960 and the claimant could not be considered the "son of an employee" as that term is used in Rule 76, under any circumstances.

We again wish to emphasize that the petitioner is not an "employee" as provided for in the Railway Labor Act and, therefore, the contention of the Committee should be dismissed and case removed from the docket of the Board.

OPINION OF BOARD: Under date of April 13, 1960, Petitioner requested that Carrier give preference under Agreement Rule 76 to one Dick Carr when hiring new employees. Rule 76 reads:

"SONS OF EMPLOYEES — PREFERENCE: Preference will be given sons of employees in the selection of new employees for work coming within the scope of this agreement."

Dick Carr is the son of Tom Carr of whom the Carrier states that inasmuch as he "died on June 26, 1953, he had no employee status as of May 31, 1960 and the Claimant could not be considered the "son of an employee" as that term is used in Rule 76, under any circumstances."

We agree with the Carrier's position and will deny the claim.

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 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 13th day of January 1965.