Award No. 14463
Docket No. SG-13350

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

David L. Kabaker, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

NORFOLK AND WESTERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Norfolk and Western Railway Company:

(a) The Carrier violated the current Signalmen's Agreement, as amended, particularly Rule 7(a), when it abolished all signal positions in the Roanoke Repair Shop and Reclamation Plant, and in the Construction Department, effective at the close of work Friday, December 23, 1960, and notified all employes whose positions were abolished to report back to the same positions in the same classes at the same locations January 9, 1961.

(b) The Carrier should be required to compensate all these signal employes for eight (8) hours per day each at their respective straight-time rate of pay for each day they were not permitted to work between December 23, 1960, and January 9, 1961.

(c) The Carrier should also be required to reimburse these signal employes all expenses they incurred as a result of the temporary lay-off between December 23, 1960, and January 9, 1961. [Carrier's File: S-253]

EMPLOYES' STATEMENT OF FACTS: In accordance with Rule 22 of the Signalmen's Agreement, signal employes on this Carrier hold home district seniority on only one of the following seniority districts:

(1) Norfolk Division, including Norfolk Terminal.
(2) Radford Division, including Roanoke Terminal.
(3) Shenandoah Division.
(4) Pocahontas Division.
(5) Scioto Division.
(6) Repair Shop and Recalamation Plant, Roanoke, Va.
(7) Construction Department (territory under the jurisdiction of the Superintendent Signals and Communications).

Claim was filed by the Brotherhood of Railroad Signalmen and appealed to the Carrier's Vice President and General Manager, the highest officer of the Carrier designated to handle such disputes, as shown in the copy of the General Chairman's letter of May 10, 1961, which is attached as Carrier's Attachment D. Also, attached as Carrier's Attachment E is copy of another letter from the General Chairman, dated July 12, 1961, by which certain portions of the claim were withdrawn.

The Carrier declined the claim.

OPINION OF BOARD: On December 16, 1960, the Carrier gave notice to all signal employes, listed as Claimants here, that such employes would be laid off work beginning December 23, 1960. The Carrier advertised these positions for bid on December 21, 1960 and thereafter on January 9, 1961 work was resumed.

The Organization claims that the Carrier's action violated Rule 7(a), and thereby deprived the employes of work from December 23, 1960 to January 9, 1961.

It asserts that the abolishment of the positions was not a bonafide reduction in force but merely a temporary layoff.

Claim is made for compensation at straight time rate for eight (8) hours pay, for each day the Claimants were not permitted to work.

The Carrier contends that the abolishment was made in full compliance with the requirements of the Agreement.

It asserts that Rule 7(a) is intended to prevent the workday or workweek from being shortended so as to avoid a reduction of force, and therefore it provides that an agreement with the majority of employes is required before a reduction in working hours or days can take place.

However, the Carrier asserts that Rule 7(a) in so providing, recognizes the unilateral right of the Carrier to make reduction in force, and contains no restriction on the Carrier's right to abolish jobs.

We must conclude that the Carrier's action, in the abolishment of signal positions, was not violative of Rule 7(a) of the Agreement. The wording in Rule 7(a): ". . . to avoid making force reductions . . ." compels the conclusion that the Carrier has the unilateral authority to make reductions in working forces.

We note from the record that the Carrier abolished positions on June 25, 1954, June 20, 1958, December 9, 1958 and December 1961 and no protest was made at those times. This would indicate that the instant case is not the first occasion where the Carrier exercised unilateral action in the reduction of forces.

The record indicates that the five day notice given on December 16, 1960 was in compliance with the provisions of Rule 26(a). Subsequently, on December 21, 1960 the positions were advertised for bids. The evidence is convincing that the procedure, used by the Carrier, in reducing the force was not violative of the Agreement.

There is no dispute that work was not performed between December 13, 1960 and January 9, 1961. Many awards hold that where the work has disappeared, the Carrier can properly abolish the positions. (See Awards 5042, 6099.)

In Award 6943 (Referee Messmore), the work disappeared and no work was performed. The Board in denying the claim stated the following:

> "It is the prerogative of management, especially so under the facts and the rule in question, to abolish positions at any given time and the reason here given is reasonable, bona-fide and legitimate."

In Award 10006 (Referee McMahon), a reduction of force took place from December 23, 1955 until January 3, 1956. The Organization in that case presented similar claims to those presented herein. The Board denied the claim on the grounds that the Agreement did not contain any provisions limiting the Carrier's rights to reduce forces.

We are of the opinion that the Agreement between the Parties herein likewise contains no limitation on the Carrier that would restrict its right to make the reduction of forces.

It must be the conclusion that the abolishment of the positions was bona-fide and in good faith; that the five day notice dated December 16, 1960 was in compliance with the provisions of Rule 26(a); and that the establishment of positions was effected in proper manner by posting for bid.

We note that the employes qualified for holiday pay. However, pay for the holidays is not involved for the reason that employes received pay for the holidays in accordance with the Holiday provision of the August 19, 1960 Agreement.

After considering all the evidence, it our conclusion that the claims are not supported by the record and must, therefore be denied.

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 Carrier did not violate the Agreement.

AWARD

Claims denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 24th day of May 1966.

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