

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Paul C. Dugan, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

SEABOARD AIR LINE RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Seaboard Air Line Railroad Company that:

(a) The Carrier violated the current Signalmen's Agreement, as amended, particularly Rules 6, 7, 8 (a) and 59, when it discontinued the positions of Assistant Signal Maintainer at Callahan, Florida, and Fairfax, South Carolina, and established positions of Signal Helper at the same locations (Bulletin No. SS 42-4, dated April 20, 1962).

(b) The Carrier be required to compensate Mr. J. B. Lee, assigned to work as Signal Helper at Callahan, and Mr. R. H. Biggerstaff, assigned to work as Signal Helper at Fairfax, the difference between the Signal Helper rate of pay and the rate of pay for their respective standing in the Assistant's class, beginning on the date of their assignments as Signal Helpers at Callahan and Fairfax and continuing as long as they remain as Signal Helpers on these maintenance positions, or until the proper Assistant Signal Maintainer rate is paid, or until they change assignments — whichever may be applicable. This claim to extend to any and all signal Employees who may replace on, or be assigned to, the Signal Helper positions at Callahan and Fairfax, until the proper correction has been made and the position of Signal Helper is changed to that of Assistant Signal Maintainer in accordance with the agreement. [Carrier's File: Sig. 34, Sig. 15-3]

EMPLOYEES' STATEMENT OF FACTS: This dispute is based on Carrier's action of establishing Signal Helper positions at Callahan, Florida, and Fairfax, South Carolina, and abolishing Assistant Signal Maintainer positions at those locations effective with the assignment of the Signal Helper positions. To accomplish this, Carrier issued Bulletin No. SS 42-4, dated April 20, 1962, which has been reproduced and attached hereto as Brotherhood's Exhibit No. 1.

As shown by Brotherhood's Exhibit No. 2 (Bulletin No. SS 52-1), the Carrier assigned Claimant J. B. Lee to the Signal Helper position at Callahan, and Claimant R. H. Biggerstaff to the Signal Helper position at Fairfax.

assigned. Signal forces are assigned and reassigned to take care of the service requirements. In the instant case it was Carrier's determination that Assistant Maintainers (in lieu of Signal Helpers) were needed in the territory having Woodbine, Georgia and Yulee, Florida as headquarters and that Assistant Maintainers were not needed in the territory having Callahan, Florida and Fairfax, South Carolina as headquarters, hence the reassignment of forces as referred to. Later it developed that the service requirements in the latter territory did not require Signal Helpers and such positions (created in lieu of Assistant Maintainers) were abolished June 25, 1962. There was nothing improper about such rearrangement and reassignment of forces.

You are going far afield when you attempt to tell the Carrier that it must assign Assistant Signal Maintainers to work with Signal Maintainers. You are referred to Third Division Award 10238 involving claim account Central of Georgia abolishing positions of Assistant Signal Maintainers, wherein the Board sustained the Carrier's position that there was 'nothing in the agreement that deprives the Carrier of its right to abolish or fail to create positions of Helpers or Assistants when they are not needed.' (Also Award 10426 to the same effect in a similar subsequent claim on the Central of Georgia.) It is pertinent to point out that your Brotherhood in those cases did not contend that only Assistant Signal Maintainers must be assigned with Signal Maintainers but that Signal Maintainers must be assigned either an Assistant Maintainer or a Signal Helper.

We do not agree with your contention that the Carrier's action violated Rule 59, because such was not done 'for the purpose of reducing the rate of pay or evading the application of the rules of this agreement,' and you have presented no evidence that it was done for that purpose.

As outlined there is no merit to your claim and it is accordingly declined. Although the burden of proof is upon the claimant you have presented nothing in substantiation thereof."

OPINION OF BOARD: The controlling issue to be determined is whether or not the Carrier abolished the positions of Assistant Signal Maintainer and established the position of Signal Helper at the same location for the purpose of reducing the rate of pay in violation of Rule 59 of the Agreement between the parties hereto.

Rule 59 reads as follows:

"Established positions will not be discontinued and new ones created under a different title covering relatively the same class of work for the purpose of reducing the rate of pay or evading the application of the rules of this agreement."

The Organization's position is that the Carrier violated said Rule 59 when it abolished the established positions of Assistant Signal Maintainer at Callahan, Florida and Fairfax, South Carolina and created new positions of Signalman Helpers covering relatively the same class of work at the same location for the sole purpose of reducing the rate of pay in violation of said Rule 59.

The Carrier's contention is that the Rules do not require that Assistant Signal Maintainer must be assigned and used in lieu of Signal Helpers; and that further the Organization failed of evidentiary proof that the Carrier abolished said positions of Assistant Signal Maintainer for the sole purpose of reducing the rate of pay for said positions.

In analyzing said Rule 59, it is seen that the portion of said rule, namely, "... covering relatively the same class of work ..." is important to the final determination of this dispute.

Rule 6(a) defines an Assistant Signal Maintainer as an employee in training for a position of signalman or signal maintainer.

Rule 7 defines a signal helper as an employee assigned to perform work generally recognized as helpers' work assisting other employees classified in this Agreement.

The Rules define the position and distinguish the positions of an Assistant Signal Maintainer and a Signal Helper. The question remains, does the work of the positions of Assistant Signal Maintainer and Signal Helper cover relatively the same class of work?

The Organization, in its Ex Parte Submission to this Board, stated that the Signal Maintainer performs maintenance and repair work on his territory, and any employee assisting him is performing relatively the same class of work, regardless of whether he is an assistant or a helper, and that the only difference between the two is their rate of pay. No evidence was submitted herein by the Organization to substantiate said allegation and contention.

This Board has on innumerable occasions held that the burden of proof is on the petitioning party to prove an alleged violation, and further that the Claimant must prove its claim with competent evidence in support thereof. Mere allegations are not sufficient to prove that the Agreement was violated.

Therefore, it is the opinion of this Board that the Carrier did not violate the Agreement, and the Claim will 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 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 30th day of June, 1966.

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