

Award No. 14631
Docket No. MW-13947

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Paul C. Dugan, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES
CENTRAL OF GEORGIA RAILWAY COMPANY**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

(1) The Carrier violated the effective agreement when it abolished Section No. 40 effective with the close of work Thursday, August 31, 1961, thereby depriving Laborers G. Casteline, M. Crowder, O. Felton, J. O. Hawkins, W. Thomas and G. L. Walton of pay for Friday, September 1, 1961, and as a result thereof:

(2) Section Laborers G. Casteline, M. Crowder, O. Felton, J. O. Hawkins, W. Thomas and G. L. Walton be paid eight hours each at section laborers' rate of pay account of the violation referred to in Part 1.

EMPLOYES' STATEMENT OF FACTS: The Claimants, G. Casteline, M. Crowder, O. Felton, J. O. Hawkins, W. Thomas and G. L. Walton, hold seniority as section laborers, and were assigned as such on Section No. 40.

By letter of August 22, 1961, Section No. 40 was abolished at the close of work Thursday, August 31, 1961.

The Agreement in effect between the two parties to this dispute dated September 1, 1949, together with supplements, amendments and interpretations thereto are by reference made a part of this Statement of Facts.

CARRIER'S STATEMENT OF FACTS: Due to the necessity to make a retrenchment, proper notice was issued abolishing the entire Section Gang No. 40, including the Foreman on the laborers, on Carrier's Macon Division, effective with the end of work on Thursday, August 31, 1961.

As a result of the foregoing, General Chairman G. A. Padgett of the Petitioners wrote a letter on October 17, 1961, filing the following claim with the Division Engineer G. W. Benson of Carrier:

"The System Committee of the Brotherhood of Maintenance of Way Employees has been requested to file claim as follows:

On May 4, 1962, General Chairman Padgett wrote Director of Labor Relations Collins, as follows:

"This to acknowledge receipt of your letter of May 1, 1962 enclosing four (4) copies of Memorandum of Conference of April 30, 1962."

The next communication of record is a letter dated January 4, 1963, from Mr. H. C. Crotty, President, Brotherhood of Maintenance of Way Employees, to Mr. S. H. Schulty, Executive Secretary of the Third Division, National Railroad Adjustment Board, Chicago, Illinois, giving notice of intent to appeal this claim to the Board for adjudication.

The Petitioners have failed in all handlings on the property to cite a rule which gives them what they are here demanding. Not knowing of any rule that has been violated by the Carrier, the demands of the Petitioners have been denied at each and every stage of handling on the property. The claim has no semblance of merit.

The rules and working conditions agreement between the Central of Georgia Railway Company and its employees represented by the Brotherhood of Maintenance of Way Employees is effective September 1, 1949, as amended. Copies are on file with your Board, and the agreement, as amended, is hereby made a part of this dispute as though reproduced herein word for word.

OPINION OF BOARD: The parties within the record agree that the controlling issues presented in this case were also involved in Docket MW-14879, Award 14393, wherein they were resolved in favor of the Carrier on the premise that the Employees failed to prove a violation of the Agreement.

Finding no palpable error in said Award 14393, therefore it is controlling herein, and the claim will be denied.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

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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