

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Nathan Engelstein, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

THE PENNSYLVANIA RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Pennsylvania Railroad Company:

(a) Protest of roster standing of Emery A. Sovik, Signal Maintainer 1-16-29, Assistant Signalman 12-1-27 and Helper 6-28-26 on the 1960 Seniority No. 1 Roster.

(b) Emery A. Sovik is not employed by the Pennsylvania Railroad and should have no standing on the 1960 Roster. This we feel is a violation of our Agreement. [Carrier's File No. System Docket 174-New York Region Case 15]

EMPLOYEES' STATEMENT OF FACTS: On April 30, 1949, Emery A. Sovik, an employe of the Pennsylvania Railroad's Telegraph and Signal Department, was granted a leave of absence by the Carrier to accept a position with the Long Island Rail Road as a Circuit Designer. Prior to that time, Mr. Sovik was employed as a Circuit Designer by the Pennsylvania and held the following seniority dates in the Pennsylvania's Telegraph and Signal Department: Signal Maintainer, 1-16-29; Assistant Signalman, 12-1-27; and Helper, 6-28-26. The above seniority dates were posted by the Carrier in its 1960 Seniority No. 1 Roster.

The Brotherhood protested the roster standing of Mr. Sovik as contained in the 1960 Seniority No. 1 Roster and discussed the subject with Mr. N. J. Lynch, Superintendent-Personnel, on June 16, 1960.

On June 29, 1960, Mr. Lynch directed the following letter, in which he denied the Brotherhood's protest, to Local Chairman R. F. Love:

"This refers to the following subject discussed at regular monthly meeting held June 16, 1960:

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(a) We wish to protest the roster standing of Emery A. Sovik, Signal Maintainer 1-16-29, Asst. Signalman 12-1-27 and Helper 6-28-26 on the 1960 Seniority No. 1 Roster.

and render a decision on the merits of the dispute; and, if so, whether the seniority standing of Emery A. Sovik on the 1960 Seniority No. 1 Roster is correct.

(Exhibits not reproduced.)

OPINION OF BOARD: The parties agree in a joint statement that Emery A. Sovik, Signal Maintainer, was granted a leave of absence on April 30, 1949 to work for the Long Island Rail Road. Mr. Sovik holds a position as Circuit Designer with the Long Island Rail Road, a position similar to the one he held prior to his transfer.

The Brotherhood contends that Carrier violated the Signalmen's Agreement when it included the name and seniority dates of Mr. Sovik in the 1960 Seniority No. 1 Roster. It maintains that Carrier did not have the right to grant him leave of absence and to continue his name on the seniority roster without negotiation.

The controlling rule in this dispute is Article 4, Section 12, which reads as follows:

"(a) When the requirements of the service permit, employees shall, upon request, be granted a leave of absence for a limited time with the privilege of renewal. This may include employees accepting elective or appointive positions with the local, state or Federal Government. For the purposes of this paragraph an employee shall be considered on leave of absence when off duty on account of sickness or disability.

(b) An employee absent on leave who engages in other employment without the special permission of the Superintendent, or who fails to return to duty upon expiration of such leave, shall forfeit all seniority rights under this Agreement and shall cease to be an employee of the Company. If there are conditions which prevent him from returning to duty by the expiration date of his leave of absence, he must, before the expiration date of his leave of absence, report by telephone or otherwise to the Superintendent, giving his reasons for being unable to return to duty and must request permission to be absent. When an employee secures permission to be absent this will extend the leave of absence by the length of time he is granted permission to be absent."

This rule provides that an employee may be granted a leave of absence with the special permission of his Superintendent. The record includes a letter dated April 29, 1949 in which Mr. Sovik was advised by the Superintendent that he was granted a leave of absence for the period of his service on the Long Island Rail Road and that during his leave he would retain and continue to accumulate seniority on the Pennsylvania Railroad.

Carrier, therefore, acted properly and in accordance with this rule when it unilaterally granted Mr. Sovik a leave of absence for the period of his employment on the Long Island Rail Road. As an employee on leave of absence from the Pennsylvania Railroad, he was entitled to have his name retained on the 1960 Seniority Roster.

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 of the parties was not violated and, therefore, the claim is denied.

AWARD

Claim is denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 29th day of July 1966.