

Award No. 14856
Docket No. SG-13309

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Daniel House, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

ILLINOIS CENTRAL RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Illinois Central Railroad Company that:

(a) The Carrier's letter of September 1, 1960, abolishing Signal Maintainer's positions at New Athens, Coulterville and Murphysboro, Illinois, and the Carrier's letter of same date, Bulletin Nos. 22 and 23, violated Rules 103, 107, 109, 207, 208, 214, 216, 220, 405, 406, 409, 505, 506, 507, 600, 806, 814 and 815 of the current Signalmen's Agreement and Section 2 Seventh, and Section 6 of the Railway Labor Act, as amended, when on September 12, 1960, the Carrier enforced the violations specified in its letters of September 1, 1960.

(b) The Carrier now cancel its letter of September 1, 1960, abolishing positions at New Athens, Coulterville and Murphysboro, Illinois, and its letters of same date, Bulletin Nos. 22 and 23 and subsequent bulletins issued account of changes resulting from the above stated letters, which were put into effect on September 12, 1960, and that the Carrier return C. Weise to his regular Signal Maintainer's position at Murphysboro, Illinois; Lloyd Lipe be returned to his regular Signal Maintainer's position at New Athens, Illinois and the regular Signal Maintainer's position at Coulterville, Illinois, be properly bulletined and assigned in accordance with the provisions of the Agreement as Harley Isom has now retired; the regular Signal Maintainer's position at Ashley, Illinois, now being filled by Lloyd Lipe be properly bulletined and assigned in accordance with the provisions of the Agreement; L. P. Lawson who was displaced at Pinckneyville, Illinois, be returned to his assigned position as Signal Maintainer at Pinckneyville, Illinois; that Signalmen (Pate) who was displaced by L. P. Lawson on Signal Gang be returned to his regular Signalmen's position in the Gang; and any and all employees who were displaced account of the Carrier's action and violation on September 12, 1960, be returned to their respective positions to which assigned at the time of abolishment or displacement and all positions vacated be properly filled in accordance with the current agreement.

(c) Since the Carrier violated the rules cited in paragraph (a) herein when it applied its violation intention of September 1, 1960, on September 12, 1960, and in addition to those violations violated other rules relating to seniority and working conditions, that it now compensate those employes cited herein and all other employes who were in any manner affected by the Carrier's violation cited herein, and amount of compensation equal to what they would have received on their regularly assigned positions, if compensation paid since leaving their regular assigned positions, was less than what they would have received, and that such employes cited herein be allowed actual expenses for each calendar day since being removed from their regularly assigned positions, and that such employes be allowed, in addition to the compensation received on the position where assigned since September 12, 1960, an additional eight (8) hours per working day, plus all overtime and calls which they were denied on their regular position prior to September 12, 1960, at the overtime rate of pay, as they were arbitrarily required to suspend work from their regularly assigned position, and absorb the overtime on another position which they did not acquire through seniority rights and preferences.

(d) Since it is not known at this time just who the employes are who have been affected account of the Carrier's violations cited herein, other than those cited herein, that the Carrier permit the inspection of its records to determine exactly the number of men and their names, and that such affected employes be properly compensated as set forth herein. All positions which have been bulletined as a result of the Carrier's violations be cancelled and employes who have been denied promotion to positions bulletined either prior to or following September 1, 1960, be properly compensated an amount equal to what they would have received had they been properly promoted and that they be given a seniority date in the class where they would have gone had the Carrier not violated the agreement as cited herein. [Carrier's File: 135-641-112, Case No. 133 Sig.]

EMPLOYES' STATEMENT OF FACTS: Prior to September 12, 1960, the Carrier had signal maintenance positions established with headquarters at the following locations: New Athens, Illinois; Coulterville, Illinois; Pinckneyville, Illinois; Murphysboro, Illinois, and Belleville, Illinois.

Under date of September 1, 1960, Division Engineer N. R. Forbes issued a letter advising that the Signal Maintainer positions at New Athens, Coulterville, and Murphysboro, Illinois would be abolished effective September 12, 1960. The letter also advised that, effective the same date, the territory of the Signal Maintainer at Pinckneyville would be extended to Mile Post 16, the present north limit of the New Athens territory, and to the then present south limit of the Murphysboro territory. The letter also stated that a Leading Signal Maintainer position and an Assistant Signal Maintainer position would be established at Pinckneyville, effective September 12, 1960. This letter is attached hereto as Brotherhood's Exhibit No. 1.

On September 1, 1960, the Carrier posted a bulletin advertising an Assistant Signal Maintainer position to be assigned to Gang No. 303, with headquarters at Pinckneyville. This bulletin is Brotherhood's Exhibit No. 2.

On September 1, 1960, the Carrier issued a bulletin advertising a Lead Signal Maintainer position to be assigned to Gang No. 303, with headquarters at Pinckneyville. This bulletin is Brotherhood's Exhibit No. 3.

The agreement between the parties, effective August 1, 1958, is by reference made a part of this Statement of Facts.

(Exhibits not reproduced.)

OPINION OF BOARD: Prior to September 12, 1960, regular Signal Maintainer positions at New Athens, Coulterville, Pinckneyville and Murphysboro, Illinois, were held respectively by Lloyd Lipe, Harley Isom, L. P. Lawson and C. Weise. Effective on September 12, in accordance with written notice issued by Carrier on September 1st the Signal Maintainer positions at New Athens, Coulterville and Murphysboro were abolished, the territory of the Signal Maintainer position at Pinckneyville was extended and new positions of an Assistant Signal Maintainer and a Lead Signal Maintainer were established at Pinckneyville. In a letter to Carrier dated October 28, 1960, postmarked October 31, 1960, Brotherhood filed a claim that the Railway Labor Act and the Agreement had been violated by Carrier's unilateral action in changing working conditions by the September 1st notices. The claim submitted to us differs in its wording from that filed in the October letter; the chief substance of the difference is that the claim filed with us, after asserting, as does the October letter, that Carrier's September 1st letter and bulletins violated the Agreement, adds "... when on September 12, 1960, the Carrier enforced the violations specified in its letters of September 1, 1960."

Carrier argues that this was a new and different claim which had not been handled as a claim on the property and should therefore not be handled by us. Carrier also argues that the claim as presented in the October letter was not presented within the 60 day time limit provided in Article 7, Rule 700 (a), since it was received by Carrier on November 1, 1960, which is more than 60 days from September 1, the date of the occurrence complained of by Brotherhood.

We find from the record that Carrier centered such discussion as there was, not on the question of its right to issue the letters and bulletins, but on its right to take the actions on September 12th of which it gave notice in the September 1st notices. Thus it is clear that the issue joined on the property was not enlarged or substantively changed by the changed wording of the claim. And since it thus also becomes clear that the occurrence on which the claim was based was the action of Carrier on September 12th, we find that the claim was presented within the time limit provided in the Agreement. We will dispose of the case on its merits.

The record does not contain evidence adequate to support Brotherhood's contentions that the rules specified by it, or any other rules, were violated. If the relative seniority standings of Lipe, Isom, Lawson and Weise were as claimed by Brotherhood, then Rule 409 may have been violated. Under that Rule, Brotherhood correctly states, an employee whose headquarters are abolished or moved may take the territory which includes his former headquarters, provided he is senior to the employee whose territory is extended to cover his former headquarters. In this case, Brotherhood says, Lipe, Isom, Lawson and Weise all should have been considered for the Signal Maintainer position remaining at Pinckneyville, and since Isom, the most senior of the four, retired, Lipe, who the Brotherhood says was the next most senior, should have been permitted to take the position. The unchallenged seniority lists in the record show, however, that Weise was in fact more senior than Lipe. Weise moved into the Pinckneyville position. Rule 409 was not breached.

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 Carrier did not violate the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **THIRD DIVISION**

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 14th day of October 1966.