Award No. 15838
Docket No. SG-14740

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Herbert J. Mesigh, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

SOUTHERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Southern Railway Company et al., to:

(a) Protest the manner in which vacation assignments have been made on the South Charlotte Division.

(b) Request that vacation assignments on the South Charlotte Division be made in accordance with the National Vacation Agreement, as amended.

[Carrier's File SG-18663]

EMPLOYES' STATEMENT OF FACTS: This dispute involves the application of the National Vacation Agreement on the South Charlotte Division beginning with the year 1962. The Employes have protested the manner in which Carrier made individual assignments on vacation schedules. There is no claim for money involved; there is, instead, a request that Carrier be required to make vacation assignments in accordance with provisions of the National Vacation Agreement, as amended. An interpretation of the Vacation Agreement is in order, and that is what the Brotherhood desires the Board to make.

This matter has been the source of considerable disagreement and extensive handling by the parties on the property beginning with S. & E. Supervisor R. T. Sewell and Local Chairman C. J. Dorminey during December, 1961. There has been no progress made in resolving the differences to the present time. Brotherhood's Exhibit Nos. 1 through 27 depict the causes for complaint and the handling. They are, with the exception of No. 1, vacation schedules and reproductions of letters by and between various officers of the Brotherhood and Carrier. Brotherhood's Exhibit No. 1 is the Form 1820 furnished by Carrier to its employes for the designation by them of three (3) choices of dates during which they desire to take their vacations. The one reproduced here was completed by Signal Maintainer C. J. Dorminey, who also happens to be the Local Chairman on the territory involved.

The vacation schedule for the year 1962 was prepared by Carrier and submitted to the Local Chairman for the Brotherhood's approval. Inasmuch as employes listed thereon were not given at least one of their three designated

I again direct your attention to the fact that assignments of vacations on the south end of the Charlotte Division are made exactly as made on other territories on Southern Railway System lines. I also direct your attention to the fact that at no time have you stated specifically what changes you desired made. I again call your attention to the fact that employes senior to Mr. Dorminey were given their vacation preferences in accordance with their seniority, and that they were entitled to their preferences ahead of Mr. Dorminey because they were senior and because the vacation agreement contemplated that they be given their preferences ahead of Mr. Dorminey.

As you know the vacation agreement provides that vacations be taken from January 1 through December 31. The vacation schedule for the south end of the Charlotte Division so provides.

As I have explained on more than one occasion, service requirements will not permit the scheduling of vacations for more than one person at a time on a supervisor's territory."

(Exhibits not reproduced.)

OPINION OF BOARD: This dispute involves the application of the National Vacation Agreement on the South Charlotte Division beginning with the year 1962. There is no claim for compensation; there is, instead a protest by the Employes of the manner in which Carrier made individual assignments on vacation schedules and a request that Carrier be required to make vacation assignments in accordance with Article 4(a) of the Vacation Agreement. It reads as follows:

"4(a) Vacations may be taken from January 1st to December 31st and due regard consistent with the requirements of service shall be given to the desires and preferences of the employes in seniority order when fixing the dates for their vacations.

The local committee of each Organization signatory hereto and the representatives of the Carrier will cooperate in assigning vacation dates."

Nine signal maintainers and one signalman assigned to the South end of Carrier's Charlotte Division, informed their Signal and Electrical Supervisor of their 1st, 2nd and 3rd choices of time for vacation. The Supervisor prepared a proposed 1963 vacation schedule on December 18, 1962, and submitted it to Mr. C. J. Dorminey, Local Chairman of the Organization. Dorminey declined to approve the schedule as it failed to allow two maintainers one of their three choices and had restricted the amount of employes to one employe on vacation at a time.

This schedule was revised on January 2, 1963, after the Supervisor talked to each man separately wherein the schedule was revised on a split vacation basis. This schedule was not approved by Dorminey for the same prior reasons. Again under date of February 11, 1963, the schedule was declined.

During this interim, correspondence was exchanged between the General Chairman of the Organization and the Assistant to the Vice President of the Carrier. Both recognized that the 2nd paragraph of Rule 4(a) of the Vacation Agreement had not been complied with as the rule required a cooperative effort on the part of the supervisor and local chairman in preparing the schedules rather than the preparation of a list by the supervisor and sending

it to the local chairman for approval. Dorminey and the supervisor met together on March 6, 1963, but still were not able to mutually agree on the schedule. Carrier then placed the vacation schedule into effect.

From an examination of the facts and applying them to Article 4(a) we find that there is no requirement that Carrier **must** grant an employe a particular week for his vacation, however, cooperation is necessary between both parties, in an effort to work into the vacation schedule the desires and preferences, "consistent with the requirements of service." Referee Morse held in his interpretation that "As both parties point out in the record, **it is impossible for a referee to lay down a blanket interpretation of the clause** 'consistent with the requirements of service' which can be applied on a rule of thumb basis." (Emphasis ours.)

In reviewing the record to determine if Carrier, "consistent with requirements of service," had permitted more than one employe to be on vacation at the same time, the record shows that this had not been the past practice on the South end of the Charlotte Division. Carrier has sufficiently cited "requirements of service" to support its refusal to permit more than one employe to be on vacation at the same time.

It is true that Carrier belatedly adhered to the provisions of Article 4(a) particularly, paragraph No. 2, however, Carrier **did** consult with Local Chairman Dorminey, some three months prior to the beginning of the vacation dates, and learned that there were no formal complaints filed with the local chairman as to the assigned vacation dates. Only Dorminey, it develops, objected to his assignment and could not approve the schedule as it conflicted with instructions written and verbal from his General Chairman. In the Board's opinion, "cooperation" is a two way street as set forth in paragraph 2 of Article 4(a).

Under the particular facts involved in this dispute, we find no violation of the applicable Agreement by the Carrier.

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 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 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 29th day of September 1967.

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