



Award No. 16458
Docket No. SG-16528

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Herbert J. Mesigh, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

UNION RAILROAD COMPANY

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

(a) Carrier violated the current Signalmen's Agreement, as amended, particularly Rule 2(b), when, on various dates during September, 1965, it instructed signal employees to report for duty at other than their regularly assigned home station.

(b) Carrier be required to compensate each such signal employee one hour's pay at one and one-half times his regular rate of pay for each such day, as follows:

Name	Dates in September, 1965	Total Hours
R. R. Woodside	3, 4, 5, 7, 8, 9, 10, 11, 12	9
R. F. McEwen	7, 8, 9, 10, 11, 12	6
J. F. Koresko	7, 8, 9, 10, 11, 12, 13	7
H. C. Potts	7, 8, 9, 10, 13	5
W. F. Friedhof	11, 12	2
A. G. Cinna	7	1
W. S. Miller	7	1

EMPLOYEES' STATEMENT OF FACTS: As indicated by our Statement of Claim, this dispute arose because Carrier required various signal employees to report for duty at other than their regularly assigned headquarters on various dates during September, 1965.

During 1964, Carrier established a new headquarters for all signal employees. This is evidenced by the following statement which Carrier made on page 5 of its ex parte submission to this Board in Docket SG-16282:

As the carrier understands the employees' grievance, they are contending that the carrier violated Rule 2(b) of the existing agreement between the Brotherhood of Railroad Signalmen and Union Railroad and should allow the claimants in question one hour travel time because they were instructed to report for duty at the North Bessemer Tunnel area.

(Exhibits not reproduced.)

OPINION OF BOARD: This is a claim on behalf of the Organization of seven named Signalmen employees who allege that Carrier violated the current Signalmen's Agreement, as amended, particularly Rule 2(b), when, on various dates during September, 1965, it instructed them to report for duty at other than their regularly assigned home station at Duquesne.

Rule No. 2 — Hours of Service, reads as follows:

“(b) An employee's time will begin and end at his home station.”

The claim is for one hour's pay each at time and one-half their respective rates, for each day required to report for duty at the North Bessemer Tunnel, being away from their home station Duquesne. The claim is for “traveling time and for inconvenience.”

The Carrier contends that it has properly compensated all the employees involved; that there is no rule requirement to pay employees for travel time and inconvenience; that the work involved was temporary in nature and filled in accordance with established practice, Rule 13(b); that when the employees were assigned to the work at North Bessemer Tunnel, this became their starting point for the purpose of compliance with Rule 13(b).

There is no dispute that Carrier complied with the terms of Rule 7 by paying the Claimants overtime rates when placed on the second and third turns at North Bessemer.

The thrust of the Employees' argument is that these were new positions created and were therefore required to be bulletined in compliance with Rule 13(a), and were not, as alleged by Carrier, vacancies per se or temporary in nature.

In our opinion, the Carrier has established that the work in question was of a temporary nature (10 days), therefore, Carrier complied with Rule 13(b) which permits it to fill these vacancies without advertising same as per Rule 13(a).

Rule 2(b) is unambiguous on its face but by its terms it does not restrict, limit or impose a contractual restriction upon the Carrier to refrain from creating temporary jobs on this property nor does Rule 2(b) restrict Carrier in changing the location of the home station. In the instant dispute, the Claimants began their work day at North Bessemer Tunnel and concluded it at this location. Duquesne was not their home station in this case.

The Board finds that in the absence of restricting provisions in the Agreement, Carrier did not exceed its authority under Rule 2(b). Further, this Board has often held that it is the function of Management to determine the manner and place where the work shall be done as well as the number of employees needed to perform the work. The exception being when said management prerogative is limited or relinquished by agreement with the Organization.

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

The Agreement was not violated.

AWARD

Claims denied.

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

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 28th day of June 1968.

DISSENT TO AWARD NO. 16458, DOCKET SG-16528

Award No. 16458 is in error.

The Majority in Award No. 16458 recognizes in its opening paragraph that the Carrier instructed the Claimants "to report for duty at other than their regularly assigned home station at Duquesne." Rule 2(b), which in the Majority's own words is unambiguous on its face, is then quoted; it requires that "an employee's time will begin and end at his home station." Hence, by the Majority's own holdings, the Carrier violated the agreement.

Award No. 16458 being in error, I dissent.

W. W. Altus
For Labor Members