



Award Number 17778

Docket Number SG-17088

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Francis X. Quinn, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

THE WESTERN PACIFIC RAILROAD COMPANY

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

- (a) The Western Pacific Railroad Company violates the current Signalmen's Agreement, effective September 1, 1949 and reprinted July 1, 1961, when it fails and/or declines to apply Rules 28, 33, 54, 55 and/or 70 by allowing Mr. G. L. Neilson to displace Mr. F. B. Peck, when Mr. Neilson was not entitled to a displacement, on January 31, 1966.
- (b) Mr. Peck be allowed compensation at the time and one-half rate of TCS Maintainer each date he is wrongfully held off his assigned position, compensation at the straight time rate of TCS Maintainer for each of such dates, and compensation at the time and one-half rate of TCS Maintainer for all hours while Mr. Neilson performs overtime work while wrongfully working Mr. Peck's assignment at Wells, Nevada.
- (c) Mr. Peck be allowed actual necessary expenses for each date he is required to be away from his rightful assigned home station at Wells, Nevada.

This claim is to be considered continuing from January 31, 1966, until Mr. Peck is returned to his proper assignment at Wells, Nevada.

[Carrier's File: D—Case No. 7655-1966-BRS]

EMPLOYEES' STATEMENT OF FACTS: This is one of several disputes which arose after Carrier consolidated its Signal and Communications Departments effective January 1, 1966, then transferred the headquarters for the combined department from San Francisco to Sacramento on or about January 24, 1966. Signal employees affected by the transfer and/or involved in this series of disputes, and the positions they held prior to the transfer, include the following:

Signal Draftsman C. L. Neilson, San Francisco

Signal Inspector H. F. Simon, San Francisco

Signal Draftsman-Circuit Designer J. E. Vlasak, San Francisco

TCS Maintainer F. R. Peck, Wells, Nevada

General TCS Maintainer A. H. Schmitt, Sacramento

Position	Incumbent	Seniority Date
Signal Inspector	H. F. Simon	November 24, 1950
Signal Draftsman-Circuit Designer	J. E. Vlasak	May 21, 1952
Signal Draftsman	G. L. Neilson	September 2, 1952

Messrs. Simon and Vlasak desired to transfer with their positions. Mr. Neilson desired to exercise his seniority by displacing a junior employe, Mr. F. B. Peck, on a position of Signal Maintainer at Wells, Nevada, in lieu of transferring with his position to Sacramento. A separate claim was presented for Mr. A. H. Schmitt, then holding a position at Sacramento, because he alleges he was not permitted to make application for the transferred position of Signal Draftsman-Circuit Designer. Mr. Schmitt was not involved in the transfer of the Signal Engineer's office.

The consolidation of departments and transfer of employes, work, etc., involved an agreement dated February 7, 1965, which was executed with five unions, including the Brotherhood of Railroad Signalmen, party to the instant dispute, as a result of the unions' demands for a "Stabilization of Employment" agreement. The Agreement of February 7, 1965, provided protection for regularly assigned employes by limiting reduction in force to natural attrition and further provided wage protection for employes affected by changes which Carrier initiated. The protection was accorded to employes who held two years' seniority prior to October 1, 1964. All three employes to be transferred were protected under the February 7, 1965 Agreement.

In discussions of the proposed transfer with General Chairman R. T. Bates, Brotherhood of Railroad Signalmen, a general disagreement arose as to whether Carrier had the right to transfer the three employes with their work. The organization agreed that Carrier could transfer the work, but disagreed that the February 7, 1965 Agreement recognized Carrier's right to transfer employes without bulletining the transferred positions as "new positions" for seniority choice of all employes.

Attached as Carrier's Exhibit "A" is copy of letter dated December 16, 1965 written to General Chairman R. T. Bates following several discussions of the matter. Attached as Carrier's Exhibit "B" is copy of Mr. Bates' reply dated January 16, 1966.

Because of the obvious dispute existing between the parties involving interpretation and application of the February 7, 1965 Agreement, under date of February 8, 1966 Carrier submitted the issues for decision to the Disputes Committee established by the parties in Article VII of the February 7, 1965 Agreement to resolve such disputes. Attached as Carrier's Exhibit "C" is copy of Carrier's submission to the Disputes Committee established by the February 7, 1965 Agreement.

The instant dispute is one of six separate disputes, all involving transfer of the Signal Engineer's office to Sacramento, which the Signalmen's Organization has submitted either to your Board or to the Disputes Committee established by Article VII of the February 7, 1965 Agreement.

OPINION OF BOARD: This dispute is companion to one we have decided in Award 17774 and an aftermath of the incident involved in Award 17777.

In the absence of evidence that Claimant was improperly displaced by Neilson (Award 17777), we will deny the claim.

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 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.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 13th day of March 1970