

Award No. 18023

Docket No. SG-18475

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Francis X. Quinn, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

**THE CHESAPEAKE AND OHIO RAILWAY COMPANY
(Chesapeake District)**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood of Railroad Signalmen on the Chesapeake and Ohio Railway Company (Chesapeake District) that:

(a) Carrier violated the current Signalmen's Agreement, in particular Rules 33, 35, 41, 41½, 43, 50, 51 and 52, when it arbitrarily removed claimant R. M. Black, Jr. from position of Signalman and placed him on position of Signal Helper on System Signal Force No. 796.

(b) Carrier now be required to compensate the claimant, R. M. Black, Jr., the difference between Signal Helper's rate of pay and that of Signalman's rate, account of the Carrier's arbitrary action as cited in part (a) of claim, in accordance with applicable rules of our agreement. In addition, the Carrier be required to make whole to the Railroad Retirement Board the difference between creditable earnings as Signal Helper and that of Signalman.

(c) Inasmuch as this is a continuing violation, claim is to cover the period of time until the Carrier takes the necessary corrective action, in accordance with applicable rules of our agreement, to return the claimant to his proper position as Signalman on Force No. 796. [Carrier's File: 1-SG-270.]

EMPLOYEES' STATEMENT OF FACTS: With the close of work May 3, 1968, Foreman C. E. Deane's position on the Carrier's Clifton Forge Division was abolished. Foreman Deane exercised displacement rights to a leading signalman's position in system Gang No. 796 effective May 6, 1968, displacing M. P. Hughes, who in turn displaced the junior signalman in System Gang No. 796.

The present dispute arose when the Carrier advised signalman R. M. Black that he was being considered the junior signalman in System Gang No. 796, notwithstanding that J. W. Furrow was actually junior to signalman Black. Carrier further advised Mr. Black that he would be provided employment as a signal helper in System Gang No. 796, effective May 6, 1968. The dispute

The instant claim has its genesis at this point.

The General Chairman of the Organization (Leading Signalman Hughes) contended that when he, Hughes, displaced the junior Signalman on System Force No. 796, that junior Signalman was Furrow not Claimant Black.

The claim, as shown in Statement of Claim above, was filed and has been handled through the procedural steps on the property, being declined by Carrier's Highest Officer designated to handle such disputes under date of October 7, 1968.

OPINION OF BOARD: This claim arose out of a series of displacements which resulted in Claimant, a signalman, being required to place himself on a signal helper position while a junior employee, protected, was retained as a signalman.

Carrier contends that since the junior employee, a protected employee, was occupying a "make-work" position, he was not subject to the operation of the seniority rules.

Here, like in Award 18022, adopted this date, the basic issue had been decided in Award 17615, which we follow here and will sustain 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 Employee involved in this dispute are respectively Carrier and Employee 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 violated.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 17th day of July 1970.