

**Award No. 18132
Docket No. SG-18574**

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

David Dolnick, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILROAD SIGNALMEN
NEW YORK, SUSQUEHANNA AND WESTERN
RAILROAD COMPANY**

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the New York, Susquehanna and Western Railroad Company:

On behalf of Messrs. J. E. Whitaker and R. Scarneccchia, whose positions were abolished effective with the close of tour of duty October 4, 1968, and Mr. V. Brosnan, whose position was abolished effective with the close of tour of duty January 16, 1969, for all compensation and benefits due under the provisions of the February 7, 1965 Agreement, said claims now payable as presented because Carrier failed to comply with the provisions of Article V of the August 21, 1954 Agreement.

EMPLOYEES' STATEMENT OF FACTS: This dispute is a combination of three separate claims which originated because Carrier made force reductions which we contend were violative of the provision of the February 7, 1965 Mediation Agreement; however, it is being presented to this tribunal because of Carrier's failure and/or refusal to handle the claims on the property in accordance with the time limit provisions of Article V of the August 21, 1954 Agreement.

Documents and correspondence pertaining to claim on behalf of Mr. Whitaker only is identified as Brotherhood's Exhibits Nos. 1 (a), 1 (b), 1 (c), 1 (d) and 1 (e).

That pertaining to Mr. Scarneccchia only are Nos. 2 (a), 2 (b), 2 (c) and 2 (d). No. 3 is a letter in which Carrier combined its denial of the claims on behalf of Whitaker and Scarneccchia. Nos. 4 (a) through 4 (g) pertains to Brosnan's claim.

As indicated by the correspondence cited in the preceding paragraph, this claim has been handled to a conclusion on the property, up to and including conference discussion with the highest officer of the Carrier designated to handle such disputes, without receiving satisfactory settlement.

There is an agreement in effect between the parties to this dispute, bearing an effective date of April 1, 1945 which, as amended, is by reference thereto made a part of the record in this dispute. The August 21, 1954 Agreement is also by reference made a part of this record.

(Exhibits not reproduced.)

CARRIER'S STATEMENT OF FACTS: There is in effect on this property an agreement effective April 1, 1945 between the Carrier and the Brotherhood of Railroad Signalmen covering working conditions and compensation of employes represented by that Organization, which agreement is by reference made a part of this Submission. The Carrier and the Organization have also been parties to all National Agreements since that time. On October 4, 1968, positions of signal employes Whitaker and Scarneccchia were abolished, and on January 16, 1969, position of signal employe Brosnan was abolished.

OPINION OF BOARD: This dispute grows out of force reductions made by Carrier in October, 1968 and January, 1969. Claimants Whitaker and Scarneccchia were furloughed on October 4, 1968 and Claimant Brosnan on January 16, 1969. Claims were submitted by the Local Chairman to the Signal Supervisor on the grounds that the reductions in force constituted a violation of the provisions of the Job Security Agreement of February 7, 1965. The Signal Supervisor failed to deny the claims. The claims were then appealed to the Director of Personnel, who denied the Whitaker and Scarneccchia claims on March 21, 1969 and the Brosnan claim on June 2, 1969.

The question of whether a violation of the Job Security Agreement of February 7, 1965 occurred is not before us. The only claim presented here is the claim that Carrier failed to deny the claim within the time specified in Article V of the Agreement of August 21, 1954. Carrier's defense in this respect is limited to an assertion that there was a mutual unwritten understanding that time limits would not be invoked. No evidence whatever is submitted in support of this contention. Therefore, we hold that Carrier violated Article V of the August 21, 1954 Agreement.

With respect to reparation as a result of the violation, we note from the record that this dispute has also been submitted to the February 7, 1965 Disputes Committee, and in the absence of knowledge of the status of the case before that tribunal we will sustain payment from the date of furlough to the date the claims were denied, March, 1969, in the case of Whitaker and Scarneccchia, and June 2, 1969 in the case of Brosnan, in line with National Disputes Committee Decision No. 16, dated March 17, 1965, except that this award is not intended to result in double payment to Claimants in the event the 605 Board has in the meantime sustained the claim similar to their Award 164 involving the same Petitioner and Respondent, but different dates and different claimants.

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;