



Award No. 18644
Docket No. MS-18991

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Gene T. Ritter, Referee

PARTIES TO DISPUTE:

MR. FRANCIS A. BOYSON

BOSTON AND MAINE CORPORATION

STATEMENT OF CLAIM: This is to serve notice, as required by the rules of your Board, of my intention to file an ex parte submission within 30 days hereafter covering an unadjusted dispute between the Boston and Maine Corporation and myself. This is embodied in the following claim:

The Boston and Maine Corporation violated the agreement of August 1, 1950 when it refused me my request to work a vacancy at the 3 to 11 P.M. shift at Mystic Junction Tower. A junior employe was assigned to the position.

The Boston and Maine Corporation is in violation of Article 11, paragraph (a).

The Assistant Director, Labor Relations and Personnel is being furnished a copy of this notice of intent. There is no Director, Labor Relations and Personnel on this Carrier at this time, to my knowledge.

OPINION OF BOARD: After having refused work for Sunday, August 6, 1967, at Carrier's Salem, Mass. Tower, he (Claimant) learned of another Tower vacancy on the same date (August 6, 1967) and advised Carrier that although he had turned down the Salem, Mass. Tower assignment, he would take the other assignment. This request was made on August 5, 1967. Carrier advised Claimant that another employe had already been assigned. Claimant contends that Carrier had the mandatory duty to grant him the requested assignment even though he had rejected an offered assignment on the same date. Such contention is without merit. Carrier has an absolute right, and duty, to operate its affairs in an orderly manner within the confines of the Agreements made with various Labor Organizations. Claimant herein had no right, contractually or otherwise, to dictate his personal policy of assignment to a position after having indicated his non-availability on the date in question. This Claim is without merit and lacks the requirements of being justiciable or containing a controversy as required by Awards Nos. 16110 (McGovern), 16435 (Ives), and 16919 (McGovern).

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.

AWARD

Claim dismissed.

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

ATTEST: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 23rd day of July 1971.