



Award No. 18813
Docket No. SG-19049

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Arthur W. Devine, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN
UNION PACIFIC RAILROAD COMPANY

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

On behalf of Messrs. H. E. Hogg, L. Huaracha, A. W. Borm, C. J. Ingram, W. W. Ingram, M. J. Rothenberger, C. F. Ripp, and J. L. Alexander, employes of Roster No. 5, Eastern District Signal Gang 3323 (3120), that they be paid the benefits to which they are entitled under Sections I-A-1, I-B-3 and I-C-1 of the Award of Arbitration Board No. 298, for the periods of November 7, 1967 to October 14, 1968, and November 15, 1968 to April 21, 1969. (Carrier's File: A-10425)

EMPLOYEES' STATEMENT OF FACTS: Arbitration Board No. 298 was constituted and established pursuant to an Agreement between several labor organizations, including the Brotherhood of Railroad Signalmen, and the National Labor Conference representing the Carriers, including the Union Pacific Railroad Company. On September 30, 1967, that Arbitration Board adopted an Award which is by reference made a part of the record herein.

Article V of the award afforded the Organization parties the option of accepting any or all of the benefits provided in the award or of continuing in effect any or all of the provisions of the existing agreement thereof. Such options were to be spelled out by the respective organizations on or before December 31, 1967, later extended to January 15, 1968 and subsequently extended to February 1, 1968.

Accordingly, the General Chairman on November 21, 1967, addressed a letter to the Carrier's Chief Engineer (Brotherhood's Exhibit No. 8) informing him of the Brotherhood's option of acceptance as follows:

"For those employes covered by Section I, we accept the following: Section I, subparagraphs A.1., A.2., B.1., B.2., B.3., B.4., C.1., and C.2.

For employes covered by Section II, we accept the following: Section II, subparagraph C.

In the exercise of our option, we desire to retain those portions of current rules of the working agreement which provide greater benefits than intended by provisions of the Arbitration Award."

Engineer on September 24, 1969) General Chairman Wollbrinck appealed the claim to the Carrier's Chief Engineer R. M. Brown. Copy attached as Carrier's Exhibit D.

By letter dated October 21, 1969, Chief Engineer Brown declined the claim to General Chairman Wollbrinck. Copy attached as Carrier's Exhibit E.

By letter dated December 5, 1969, Chief Engineer Brown confirmed conference with General Chairman Parsons, which was held on December 4, 1969 reiterating his declination of the claim. Copy attached as Carrier's Exhibit F.

General Chairman Parsons further corresponded with Chief Engineer Brown relative to the subject matter by letter dated February 7, 1970. Copy attached as Carrier's Exhibit G. The subject matter was discussed in several subsequent conferences between Chief Engineer Brown and General Chairman Parsons.

(Exhibits not reproduced.)

OPINION OF BOARD: The claim herein alleges a violation by the Carrier of the Award of Arbitration Board No. 298. The Petitioner states in its submission that:

"It is the position of the Brotherhood that the Carrier violated the provisions of Arbitration Board No. 298 Award, particularly Section 1-A-1, 1-B-3 and 1-C-1, when employees in Signal Gang No. 3323 were not permitted to report to a fixed point which remained the same throughout a period of 12 months or more, and were not paid the benefits provided in the afore said Sections of the referred to award. A copy of the Award is attached hereto as Brotherhood's Exhibit No. 13."

The Carrier contends that it did not violate any provision of the schedule agreement or of the Award of Arbitration Board No. 298.

The Board's attention has been called to Section 8(m) of the Railway Labor Act and to Paragraph 14 of the arbitration agreement leading up to Award No. 298, which reads:

"14. Any difference arising as to the meaning, or the application of the provision of such award shall be referred for a ruling to the Board, or to a sub-committee of the Board agreed to by the parties hereto; and such rulings, when certified under the hands of at least a majority of the members of such Board, or if a subcommittee is agreed upon, at least a majority of the members of the subcommittee, and when filed in the Clerk's office of the United States District Court for the Northern District of Illinois, Eastern Division, shall be part of and shall have the same force and effect as such original award."

In recent Awards 17845, 18485, and 18577 this Division, with three different referees participating, held that any differences arising as to the meaning or application of the Award of Arbitration Board No. 298 were within the exclusive jurisdiction of Arbitration Board No. 298 and outside the jurisdiction of this Division. We consider those awards to be sound, based upon the law and the arbitration agreement. They are controlling herein and the claim will be dismissed without prejudice for lack of jurisdiction.

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 the Third Division has no jurisdiction over the dispute.

That the claim will be dismissed without prejudice.

AWARD

Claim dismissed without prejudice.

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

ATTEST: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 12th day of November 1971.