



Award No. 18912
Docket No. SG-19203

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Paul C. Dugan, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

CHICAGO AND NORTH WESTERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood of Railroad Signalmen on the Chicago and North Western Railway Company that:

(a) The Carrier violated the current Signalmen's Agreement, as amended, particularly the last paragraph of Rule 4, when it failed and/or refused to employ Mr. Michael Alan Barnes, the son of Signal Maintainer J. P. Barnes, solely because of the relationship of these men.

(b) The Carrier now be required to employ this person, Mr. Michael Alan Barnes, on a position classified in the Signalmen's Agreement; compensate him commencing sixty (60) days prior to the date of this letter and continuing until Rule 4 is complied with; establish a seniority date for him as of the first day for which he is paid in accordance with Rule 32; and provide all other benefits to which he would be entitled as a signal employe who commenced receiving pay sixty (60) days ago. (Claim initiated under date of August 30, 1969.) (Carrier's File: 79-3-68.)

EMPLOYEES' STATEMENT OF FACTS: There is an agreement in effect between the parties to this dispute, bearing an effective date of June 1, 1951, which, as amended is by reference made a part of the record in this dispute.

Pertinent to the instant dispute is the second paragraph of Rule 4, which reads:

"Preference will be given to sons of employes in the selection of new employes for work coming within the scope of this agreement."

Two previous Signalmen's Agreements, bearing effective dates of June 1, 1936, and July 1, 1939, contained the same rule.

Also pertinent to the instant dispute, because the Signal Supervisor failed to deny the initial claim within sixty days of the date it was presented to him, is Article V of the August 21, 1954 Agreement, which reads:

4.2 No two related employees should report directly to the same supervisor.

4.3 No two related employees, with the same job level should be employed in the same department and geographical location."

Mr. J. P. Barnes is employed by the C&NW as a signal maintainer at Wheatland, Iowa on the Western Seniority District for signalmen.

Michael Alan Barnes, son of Signal Maintainer J. P. Barnes, reached his 18th birthday on August 9, 1969. On or about that date, he made application for permanent employment to Mr. A. F. Cherveny, Signal Supervisor, for a position under the signalmen's agreement on the Western Seniority District. At that time, Mr. Cherveny informed Mr. Barnes that because his father was employed in the Signal Department on the Western Seniority District he could not be employed in the Signal Department on that district, but could be employed as signalman on any other seniority district, or could be employed in a different class of service.

Michael Alan Barnes evidenced no interest in employment on a different seniority district, or in a different class of service.

The instant claim was initiated by Local Chairman J. E. Hansen's letter of August 30, 1969 to Mr. Cherveny, and was denied by Mr. Cherveny on November 19, 1969. Subsequently, the claim was appealed up to and including the highest officer on the property, and has been denied.

During the handling of this case on the property, the employees' principal argument in support of this claim has been that the Signal Supervisor violated the time limit rule in failing to disallow the claim in writing within 60 days of the date it was filed. The carrier pointed out that the time limit rule applies only to claims in behalf of employees, and that Michael Alan Barnes is not and was not an employee of the carrier. The General Chairman stated that Signal Maintainer J. P. Barnes, the father of M. A. Barnes, was an employee, and that he therefore had a basis for claim under Rule 4. However, the employees did not at any time file a claim in behalf of Signal Maintainer J. P. Barnes, nor does the "Statement of Claim" in this case indicate that the claim is submitted in behalf of J. P. Barnes rather than M. A. Barnes.

OPINION OF BOARD: The record in this case clearly reveals that Claimant was never an employee of the Carrier. Since a dispute to be within the jurisdiction of this Board must be "between an employee or group of employees and a Carrier or Carriers" (Section 1, Fifth and Section 3, First (i) of the Railway Labor Act), to constitute a dispute referable to this Board, and Claimant was not an employee of Carrier, the instant dispute is outside the jurisdiction of this Board as that jurisdiction is limited by the Railway Labor Act. Accordingly we will dismiss the claim. See Third Division Award 15565.

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.

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 December, 1971.