

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19405  
Docket Number SG-19234

Gene T. Ritter, Referee

(Brotherhood of Railroad Signalmen  
PARTIES TO DISPUTE: (  
(George P. Baker, Richard C. Bond, Jervis Langdon, Jr.  
( and Willard Wirtz, Trustees of the Property of  
( Penn Central Transportation Company, Debtor

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad  
Signalmen on the former New York Central Railroad Company  
(Buffalo and East):

On behalf of D. A. Nolen and J. W. Kelly for additional compensation  
account not recalled as required by the Merger Agreement nor worked full time  
as required by the Signalmen's Agreement, and that their positions be bulletined  
as required by the Signalmen's Agreement. (Carrier's File: 245-M)

OPINION OF BOARD: On May 20, 1964, the former Pennsylvania Railroad Company  
and the former New York Central Railroad Company entered into  
an agreement with their Signal Department employees. This agreement was for the  
protection of employees in the event of a merger of the new companies. On February  
1, 1968, the two companies merged. The Claimants in this case, Nolen and Kelly,  
were on a furloughed status prior to the merger. They were entitled to be re-  
called to service on the date of the merger in accordance with the merger agree-  
ment. Carrier, in this instance, has computed Mr. Nolen as being entitled to  
17 days per month and has computed Mr. Kelly to be entitled to 11 days per month  
on the basis of one-twelfth of the total days they worked during the 12 months  
period prior to the effective date of the merger. The Organization contends that  
Claimants should have been placed on a full time basis (40 hours per week minimum)  
and that they should be paid for all time lost for the reason that they were not  
timely recalled. The Organization also contends that this position should be  
bulletined. Carrier contends that under Section 1(e) of the Merger Protective  
Agreement, this dispute should be submitted to an arbitration committee for con-  
sideration and determination and that this Board has no jurisdiction to hear  
this matter. Carrier also contends that the claim has been properly computed;  
and that since the involved Claimants were part time employees, prior to the Mer-  
ger Agreement, Carrier was under no obligation to bulletin these positions.

This Board finds that this dispute should have been referred to the  
Arbitration Committee provided for and agreed to by both parties under the Mer-  
ger Protective Agreement. This Board must refuse to accept jurisdiction in this  
case. See Section 1(e) of the Merger Protective Agreement involved in this  
dispute.

Award Number 19405  
Docket Number SG-19234

Page 2

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 this Division of the Adjustment Board has no jurisdiction to decide the dispute which is the subject matter of this claim.

A W A R D

Claim dismissed without prejudice.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST:

  
Executive Secretary

Dated at Chicago, Illinois, this 15th day of September 1972.