

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20054
Docket Number SG-19536

'Joseph A. Sickles, Referee

(Brotherhood of Railroad Signalmen

PARTIES TO DISPUTE: (

(Chicago, Milwaukee, St. Paul and Pacific Railroad Company

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Chicago, **Milwaukee, St. Paul** and Pacific Railroad Company for eight (8) hours penalty time per day per five-day week, beginning February 2, 1970 and continuing until such time as Carrier complies with provisions of Rule 65 of the Signalmen's Agreement and properly bulletins Second Shift Maintainer position at Retarder Classification Yards, **Bensenville, Ill.**, account Carrier improperly filling this position by appointment and in violation of Rules 65 and 66(a). /Carrier's File: Case No. F-1069/

OPINION OF BOARD: A Second Shift Maintainer position was created and bulletined for bid in the Southern District on May 17, 1968. Wednesday and Thursday were designated as rest days. No one bid for the position. Thereafter, the same position was bulletined in the Northern Seniority District and, again, no one bid.

Almost one year later (May 14, 1969) the same position was bulletined for bid in the Southern District, however, the rest days were changed to Saturday and Sunday. On May 27, 1969, Carrier, by bulletin, advised that the position would not be awarded "account no qualified bidders." The position was not bulletined in the Northern Seniority District in 1969.

On February 2, 1970, the Carrier appointed an individual who had been hired and trained for the job.

The Organization claims an Agreement violation, stating that the position should have again been bulletined for bid prior to the 1970 appointment and that the Carrier was required to bulletin the position in the Northern Seniority District in 1969 after the rest days were changed.

The Carrier **argues** that the Organization has failed to comply with Article V, Section 1(a) of the August, 1954 Agreement because the claim fails to identify the Claimants. If this position is well taken, the Board must deny the claim without a consideration **of** the merits. See Award 11372 (**Dorsey**).

The Board is fully cognizant of its responsibility to rule on the merits of each individual case whenever possible, and **we are** always reluctant to reach a decision on the basis **of** a procedural defect. However, in this case, the Board suffers from the **same** inability to identify the appropriate Claimant as described by Carrier and feels that the dispute must be disposed of on procedural grounds.

The Board has thoroughly reviewed precedent Awards cited by the parties, and notes that it is not necessary to specifically name the employee in the claim, if he is so described that he is readily identifiable by the Carrier without further evidence or if his identity is ascertainable without undue difficulty. See Awards 9205 (Stone), 9248 (**Schedler**), 9333 (Weston), and 10576 (**LaBelle**). See also Awards 10052 (Dugan), 10238 (Gray), 10426 (Rock), 10871 (Hall), 19113 (Dorsey), 18640 (**Rimer**), and 17195 (Meyers).

On the other hand, the Organization may not place a burden of guesswork on the Board, so as to require it to engage in various speculations (See Award 17740 (**McCandless**)). The identity of the Claimant must be described with particularity so as to make identity known under the prevailing circumstances. Award 11372 (Dorsey).

In its Submission, the Organization concedes that the General Chairman could not know who to designate as the proper Claimant - because Carrier failed to bulletin the position properly and, thus, eligible employees were denied an opportunity to bid. **Moreover**, during the handling on the property, the Organization conceded that it did not know of anyone interested in bidding on the second trick maintainer position in question.

We are unable to find from the claim, or related documents, the identity of any individual (with a sufficient degree of certainty) so as to sustain the claim. This is not to say that the Board would condone a Carrier action which placed the Organization in an untenable position in this regard, however the record here does not suggest any such result. **The Organization** was aware in May of 1969, that the position was not awarded "account no qualified bidders." The record fails to **demonstrate** that, at that point in time, the Organization raised any issue concerning a bulletin distribution in the Northern District. Moreover, it would appear incumbent upon the Organization to produce some evidence that anyone subject to the bulletin rules desired the position in early 1970. We may not assume that **some** unidentified employee may have desired to exercise a bid which, of course, would have required a specific affirmative action on the employee's part. Absent any indication of record that anyone desired the position, we find that the claim is lacking in specifics necessary to identify Claimants. Accordingly, it does not comply with Article V, Section 1(a) of the August, 1954 Agreement and must be dismissed. See Award 19113 (Dorsey)

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 jurisdiction over

the dispute involved herein; and

That this Division of the Adjustment Board has jurisdiction over
the dispute involved herein: and

That the claim is **dismissed** for reasons stated in the Opinion.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: *A. W. Pauls*
Executive Secretary

Dated at Chicago, Illinois, this 30th day of November 1973.