

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21180
Docket Number **SG-20981**

William M. Edgett, Referee

PARTIES TO DISPUTE: { Brotherhood of Railroad Signalmen
{ Erie Lackawanna Railway Company

STATEMENT OF CLAIM: Claim of the **General Committee** of the Brotherhood of Railroad **Signalmen** on the **Erie Lackawanna** Railway company:

On behalf of **T. L. Casperson** for **moving expenses** under Article VIII of the **November 16, 1971 National Agreement**, Mediation **Case No. A-8811**.

General chairmen file: #491. Carrier file: **220-81g.7**

OPINION OF BOARD: Claimant had **established seniority** as an **Assistant Signal Maintainer** and **was working** as a Signal Helper with headquarter⁶ at Ashland, Ohio. Carrier bulletined a **position** as **signal helper** at Urbana, Ohio. Several day⁶ later Carrier re-bulletined the position, "corrected", and noted on the corrected bulletin that it **was re-advertised** "account error in title of **position**". The **newly advertised** title **was** that of **Assistant Signal Maintainer** rather than **Maintainer Helper**.

Claimant **was** then **faced** with the **choice** of bidding the **assistant maintainer position** or **losing** the **seniority** he had **established** in that **classification**. He **chose** to bid the **position** and as a result hi⁶ head-quarter⁶ moved a distance in **excess** of 100 miles. He moved hi⁶ residence nearer to the **new headquarter⁶ point** and **submitted** a **moving expense** report to carrier. The claim **is** for the **moving expenses** provided by Article VIII of the **November 16, 1971 National Agreement** which reads:

"ARTICLE VIII - CHANGES OF RESIDENCE DUE TO TECHNOLOGICAL, OPERATIONAL OR ORGANIZATIONAL CHANGES

When a carrier make⁶ a technological, operational, or organizational change requiring an employee to transfer to a new point of employment requiring him to move his residence, such transfer and change of residence shall be subject to the benefit⁶ contained in Section⁶ 10 and 11 of the **Washington Job Protection Agreement**, notwithstanding anything to the contrary contained in said provisions, except that the employee shall be granted 5 working days instead of 'two working days' provided in Section 10(a) of Said Agreement; and in addition to such benefit⁶ the employee shall receive a transfer allowance of \$400. Under this provision, change of residence shall not be considered 'required' if the reporting point to which the employee is changed is not more than 30 miles from hi⁶ former reporting point."

Carrier ha6 denied the claim on the grounds that changing the position at Urbana from the maintainer helper classification to the assistant signal maintainer classification is not a "technological, operational, or organizational change" 'Carrier has also denied that Claimant was required to move his residence in connection with reporting to a new headquarters point.

S.B.A. No. 605, which ha6 issued many award6 in connection with Article VIII, ha6 held that the abolishment of a position is not change falling within the ambit of Article VIII. Here we have, not the abolishment of a position, but the changing of a permanent position at a location from one classification to another. While Carrier ha6 insisted that such a change is not an organizational change, within the meaning of Article VIII, the Board has not been directed to any decision supporting that opinion. Clearly, the change involved in this case is not of large moment in the scheme of things. It is, however, an organizational change, since the permanent table of organization, or stated differently, the manning, of Carrier's signal forces is not the same as it was prior to the change.

The cases have held that the fact that a headquarters point is moved more than 30 miles is not, in and of itself, proof that the employee was required to move his residence. Each case is subject to review and determination that a move was necessary. Here the distance involved, as previously stated, was in excess of 100 miles. In a recent decision (Ho. 398), S.B.A. 605 ha6 held that moving the headquarters point a distance of 100 miles was prima facie proof that it was necessary for the employee to move his residence. Given that holding and the distance Claimant's headquarters point moved it follows that movement of his residence was required.

Carrier has asserted that Claimant was not required to bid on the assistant maintainer position and that he could have remained as a maintainer helper. The Agreement, of course, provides that his failure to bid on the assistant maintainer position would have resulted in the loss of the seniority that he had accumulated in that classification. Although Carrier believes that Claimant was engaged in a voluntary exercise of his seniority, the Board does not agree. The choice between bidding the position and the loss of seniority is not a free one. It is coerced by the Agreement provision which would have stripped him of his accumulated seniority should he have failed to bid. Such a choice is no more voluntary than if Carrier had specifically directed a move and is a change in position which contemplates the application of the provisions of Article VIII.

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 **Employee** involved in this dispute are respectively Carrier and **Employee 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** violated.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Paulsen
Executive Secretary

Dated at Chicago, **Illinois**, this 13th day of **August** 1976.