

NATIONAL RAILROAD ADJUSTMENT BOARD

THIW DIVISION

Award Number 22476  
Docket Number CL-22221

golf Valtin, Referee

**PARTIES TO DISPUTE:**

(Brotherhood of Railway, Airline and  
( Steamship Clerks, Freight **Handlers**,  
( Express and Station **Employees**  
(  
(St. Louis-San Francisco Railway **Company**

**STATEMENT OF CLAIM:** Claim of the System **Committee** of the Brotherhood  
(GL-8469) that:

1. Carrier violated the Agreement between the parties when it failed and refused to allow **moving** expenses as submitted by agent/telegrapher, **R. J. Denevan**, on August 2, 1976.

2. Carrier shall now be required to compensate Mr. **R. J. Denevan** \$676.45 in line with Article XIV and XVI of the December 1, **1969** Agreement.

**OPINION OF BOARD:** In accordance with the so-called Centralization Agreement (which became effective in early **1971**), the Carrier, on April 16, 1973, established a Central Agency **Complex** headquartered at Crystal City, Missouri and incorporating eight stations, including Barnhart; to the north of Crystal City. The claimant had been the Agent/Telegrapher at Darnhart. Rather than take a separation allowance, the claimant transferred to Crystal City **and** there became an Assistant Agent. In making the **move**, he (and others similarly situated) **received** the benefits - protection against loss of wages, reimbursement for moving expenses, etc. - of Article XVI of the Agreement of December 1, 1969.

In May, 1976, the claimant's Crystal City position was abolished. **Exercising** his seniority, the claimant displaced a junior **employee** in the position of Operator Cashier No. 4 (also referred to in the record as the Telegrapher Position No. 4) at Cape Girardeau, Missouri. **Cape** Girardeau lies **some** 100 **miles** to the south of Crystal City. The claimant assumed his new post in early June, 1976. He **moved** his family and personal belongings about a month later.

Thereafter, on August 2, 1976, the claimant filed a claim for reimbursement of various **moving** expenses **and** for 5 days' **pay** at his former Crystal City rate. His claim **came** to a total of \$974.25. The Organization subsequently amended the claim (**withdrawing**, among other **things**, the request for 5 days' pay). Thus yielded is the \$676.45 sum which is specified in the Statement of claim.

The Carrier interposes a time-limit objection based **on** the elapsed time between the claimant's assumption of the Cape Girardeau post and the Superintendent's receipt of the claimant's **moving-expenses-and-wage-loss** statement. Given our conclusion on the merits, we see no need to show the exact nature of the **time-limit** objection or to deal with that objection. We think it is not well founded.

**On** the merits, the question is whether the claimant is entitled to the claimed \$676.45 by combined effect of Article XIV and Article XVI of the December 1, 1969 Agreement.

**Article** XIV is titled "Implementing Agreements". Its section 1 **reads** as follows:

"(a) The **Organizations recognize** the right of the Carriers to make **technological**, operational and **organizational** changes, and in consideration of the protective benefits provided by this Agreement, Carriers **shall have** the right to transfer work and/or transfer clerks and telegraphers throughout the system to **meet** Carriers' service requirements. The Organizations signatory hereto shall enter into such implementing agreements with the Carriers as may be necessary to provide for the transfer and use of **employees** and the allocation or rearrangement of forces made necessary by the contemplated **change**. **One** of the purposes of such implementing agreements shall be to provide a force adequate to meet the Carriers' requirements.

(b) Any **employee** being transferred as a result of an implementing agreement shall be entitled to the benefits provided for in Article XVI of this Agreement."

Article XVI is titled "**Moving** Expenses and Separation Allowances". It contains the **following** prwisions.

Section 1(a) reads:

"In the case of any transfer or rearrang-t of forces as a result of a technological, operational or **organizational change** for **which** an implementing agreement has been made, any protected **employee** who is requested by the Carrier pursuant to said **im-plementing** agreement to transfer to a **new** point of employment requiring a **change** of residence shall be given an election which must be exercised in writing within 7 calendar days of the date of such request:

- (1) To transfer **in** accordance with prvisions of the **implementing** agreement; or,
- (2) To exercise seniority displacement rights."

Section 1(e) reads:

"If the **employee** elects to exercise seniority displacement rights in lieu of transfer in accordance with prvisions of the implementing agreement, or if he reverts to the extra list as a result of his failure to exercise an option, he shall not be entitled to the benefits provided by this Article XVI."

Section 2(a) reads:

"**In** all instances in which the Carrier **makes** a **technological**, operational or organizational change which does not require an implementing agreement under Section 1 above, but which results in an **employee** having to change his place of residence in order to retain his protected status, such **employee** shall be reimbursed for:

- (1) The actual cost of moving his household goods and personal effects, including necessary packing and unpacking and standard insurance prvided by the **common** carrier as a part of the basic rate;

- "(2) Actual wage loss during the time necessary for such transfer; not to exceed **five working** days;
- (3) Automobile mileage by the most direct highway route not to exceed **one** and one-half **round** trips from **his old** residence to his new residence;
- (4) Actual necessary **living** expenses for himself and his family **during** the **time** necessary for such transfer, not to exceed five days."

**Contrary** to what the Organization is contending, we believe that we **must** view the dual event which is here **fundamentally** at issue - the abolition of the claimant's Crystal City **position** and the consequent exercise of his seniority rights - as **falling** outside the **kind of** situation which triggers the **protective** benefits of Article XVI. It is true that the phrase "technological, operational and **organizational** changes"\* stands without definition and that the abolition of a position can be taken to **constitute** one or **another** of such changes. **but so** to proceed, in our opinion, would be contrary to the **scheme of things** clearly manifested by the provisions. We do not **mean to lay down any** sort of **broadly-applicable** definition of the phrase, but **we** think it is clear that the reference is to changes which **bring into** play realignments and their attendant transfers of duties, positions **and employees**. This is what happened when the Central Agency **Complex** at Crystal City **was** established -and when, accordingly, the claimant and others **became** entitled to the **protective** benefits. It c-t be held that this is what happened in the present case. The record is bare of any evidence, or **even** the slightest suggestion, that there was any **relationship** - save for the **exercise** of the claimant's seniority rights - between what happened at Crystal City and what happened at Cape Girardeau. All that can be taken to have happened is **that** the claimant's position was abolished - an event which marks a reduction in force - and that the claimant, in exercising his **seniority rights**, **displaced** a junior **employee** at Cape Girardeau. The claimant landed at Cape Girardeau, **some** 100 miles away, but he did so because that is where

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\* The connecting word "and" is used at Article XIV, whereas the connecting word used at Article XVI is "or.". Viewing the difference as attributable to **context**, **we are** making nothing of it,

his seniority took him.

The record includes references to **correspondence between** the parties in 1975 on whether or not the Carrier could reduce the Crystal City force **below** a certain level without an implementing agreement. The correspondence **ended** in a stalemate. On the assumption that no implementing agreement was necessary, the Organization submits that, while Section 1 of Article XVI might be rendered inoperative, Section 2 of that Article remains in the picture and entitles the claimant to its benefits. We see it differently. We believe that the occurrence of "technological, operational or organizational changes" remains as the underlying requisite condition.

Other arguments and **sub-arguments** are in the record. We refrain from dealing with them because we have given what we believe to be the answer which is central and dispositive of all that is before us. We note that, in declining to view the present situation as one which falls within the **purview** of "technological, operational or organizational changes", we are in accord with a series of Special Adjustment Board holdings (involving different properties but substantially the **same** language).

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; and

That the **Agreement** was not violated.

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**Claim** denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST: *W. Paul*  
Executive Secretary

Dated at Chicago, Illinois, this 31st day of July 1979.

