

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23208
Docket Number SG-23312

Rodney E. Dennis, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(Missouri Pacific Railroad Company

STATEMENT OF CLAIM: "Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Missouri Pacific Railroad Company:

That Mr. Jamison's letter of August 30, 1978, file Z-4, be rescinded, that a maintenance foreman be assigned to Little Rock retarder yard, and that Signal Maintainer W. Vaughn be paid the difference between his rate of pay and that of a maintenance foreman, account in the absence of a maintenance foreman, Mr. Vaughn is required to perform those duties." (Carrier file: K 225-792)

OPINION OF BOARD: On August 30, 1978, Mr. Jamison, supervisor of Signal Department employee at Little Rock, issued a letter to Mr. J. A. Burton, retarder yard technician, outlining a retarder yard technician's duties. Mentioned in this letter as one of the required duties was the fact that "Technicians may in the performance of his duties supervise, instruct or direct other employ-es."

The letter further stated that the supervision of other employees was not limited to the computer room or retarder building, but extended outside the building as well. This letter prompted the local chairman to file the instant claim. It alleges that Carrier is requiring that a retarder yard technician perform certain duties that result in making it unnecessary for Carrier to assign a maintenance foreman to the Little Rock retarder yard.

The Organization argues that Carrier should assign a maintenance foreman to the Little Rock retarder yard and not require maintainers and technicians to perform a foreman's duties. It also requests that this Board require Carrier to rescind the August 30, 1978, letter and pay claimant V. Vaughn the difference between his rate of pay and foreman's pay for 60 days prior to the claim date until claim is settled.

Carrier contends that the instant claim is untimely filed. It abolished the maintenance foreman position in the North Little Rock retarding yard in 1973. If the Organization intended to complain about it, it should have done so five years ago. It also argues that Schedule Rule 100 authorizes it to direct retarder yard technicians to supervise, instruct, and direct

other covered employees. Carrier contends that the Organization has not carried its burden in the instant case. It has failed to state just what work claimant performed that was a foreman's responsibility.

The Board has reviewed the record of this case and considered the arguments and the cases presented by the parties in support thereof. It is the opinion of this Board that Jamison's letter of August 30, 1978, did, in fact, trigger the instant grievance and that it was timely filed. It is also the opinion of this Board that the claim has no merit.

Rule 100 clearly allows Carrier to direct a retarder yard technician to do some supervision. The Organization has failed to identify just what duties were performed by claimant that were not apart of his duties for the past five years or were not covered under Rule 100. It is clear from the record of this case that the Jamison letter set off a dispute. It is not clear, however, why this letter was written or why it describes in writing what always has been understood to be the duties to be performed by maintainers and technicians.

After a review of the total record of this case, the Board must deny the claim. The Board has no authority to require Carrier to rescind the Jamison letter. Neither does it find an agreement violation on which to base a sustaining award.

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

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That the **Agreement** was not **violated**.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **Third Division**

ATTEST: *A. W. Paulos*
Executive Secretary

Dated at Chicago, Illinois, this 16th day of March 1981.