

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number **23961**
Docket Number SC-23960

Ida Klaus, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
[Chesapeake and Ohio Railway Company
(Pere Marquette District)]

STATEMENT OF CLAIM: "Claim of the General **Committee** of the Brotherhood of Railroad **Signalmen** on the Chesapeake & Ohio Railway Company (**Pere Marquette District**):

(a) **Carrier** violated and continues to violate the **C&O** Railway Pere Marquette District **Communication Agreement**, particularly Rules **200, 201, 202, 203, 207, 208, 505, 506, 701 and 908**, when on or about July **24, 1978** positions of Electronic Repairman on Force No. **1809 - Grand Rapids**, and Force No. **1802 - Dearborn, Michigan**, were changed from first shift assignment to second shift assignment without proper negotiations.

(b) **Carrier** should now be **required** to place Claimants **E. Tabor** and **D. A. Sayed** back on **their** first shift assignments **until** the parties' Agreement has been complied with. In the meantime, Carrier should compensate Claimants, or their successors, at their **time** and one-half rate for all hours worked after **4:30 p.m., Monday through Friday**, starting on or about July **24, 1978**, less **time** already allowed. Overtime rates requested here is to be in addition to monthly rate contemplated by Rule 701. The claim to commence July **24, 1978** and continue thereafter **until Claimants** are returned to their first shift **assignment** or the violation is corrected.

(c) **Carrier** should, in the event the claim is sustained, check its records jointly **and** in cooperation with Representatives of this **Brotherhood** to determine the number of man hours worked by Claimants after **4:30 p.m., Monday through Friday**, in aiding to determine the amount of compensation due **Claimants**."

(General Chairman file: **78-40-PM**. Carrier file: SC-561)

OPINION OF BOARD: While the Organization has relied on a number of rules, the **primary** basis of its claims is Rule **202** of the Agreement, captioned "**Starting Time**".

The claims arose when the Carrier abolished two first shift Electronic Repairman positions at two locations and advertised two **Electronic Repairman** positions for the second shift at the **same** locations.

The Organization asserts that Rule **202** required **prior negotiation** at the local level for the shift **change** and that the **Carrier's** unilateral action therefore violated that requirement.

Upon review of the record and analysis of the provisions of Rule 202, the Board concludes that the Organization has failed to support its position by persuasive probative evidence.

Rule 202(c) provides for **mutual agreement** between the signal supervisor and the local chairman only where an "Exception to the starting time of other than the first shift" is to be made. That provision is not applicable to the record facts before us. With respect to these facts, we discern nowhere in Rule 202 an obligation of the Carrier to negotiate before making a **change** in shift or establishing a second shift. That determination has been left to the **managerial** discretion of the Carrier.

The claims will be **denied**.

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

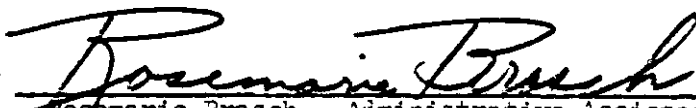
That the Agreement was not violated.

A W A R D

Claims denied.

RATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: Acting **Executive** Secretary
National Railroad Adjustment Board

By 
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 16th day of August 1982.