

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Irwin M. Lieberman, Referee

Award Number 24213
Docket Number SC-24150

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 the parties' Signal Agreement, as amended, particularly Rule 217, when on or about May 5, 1980 Carrier changed headquarters (home station) Of Detroit Signal Gang Force 1702 from Detroit, Michigan to Dearborn, Michigan.

(b) Carrier further violated the parties' Signal Agreement, as amended, particularly Section 3 of Agreement of August 2, 1977, when Carrier refused payment of per diem expense allowance to members of Force 1702 when Claimants did not end their work days at their headquarters (home station) of Detroit, Michigan.

(c) Carrier should now be required to allow per diem expense allowance to Claimants for work days as indicated below:

Name	<u>C&O ID NO.</u>	No. Days Worked in <u>Pay Period Ending 5-23-m</u>
B. T. Dalton	2280757	4
V. R. Stanek	2427876	8
J. F. Allarding	2517211	8
R. J. Redmond	2 619 872	8
G. B. McVey	2622689	8
R. J. Weitzel	2626866	8

(d) Inasmuch as this is a continuing violation, claim is to continue until such time as Carrier takes necessary corrective action to comply with violations cited in parts (a) and (b) above."

OPINION OF BOARD: The basic premise upon which this Claim is based is the alleged move of a gang's headquarters from Detroit, Michigan to Dearborn, Michigan. In view of the ultimate conclusion reached on the merits, the Board will offer no comment concerning the procedural irregularity specified by Carrier in its Submission. The Rule which controls the basic thrust of the Claim provides in pertinent part:

"Rule 217--GANG HEADQUARTERS

(a) Headquarters of existing **gangs** as of the effective date of this agreement are as follows:

- (1) Detroit-Grand **Rapids** sub-seniority district
gag--Detroit, **Michigan**
- (2) **Chicago-Petoskey** sub-seniority district **gang**
-Grand Rapids, **Michigan**
- (3) **Toledo-Ludington** sub-seniority district **gang**
-Saginaw, **Michigan**
- (4) **Canadian** seniority district **gang-Ridgetown,**
Ontario

(b) These headquarters (viz., Detroit, **Grand Rapids,** Saginaw **and Ridgetown**) may be changed by agreement between the Management **and** the duly authorized representative of the employees."

The record indicates that for an unspecified **number** of years prior to 1977 Force 1702 had been operating from Camp Cars. Following the elimination of **Camp Cars** in 1977 this force worked away from the Detroit **area** until May of 1980. During this period members of the Force were allowed appropriate per diem expenses. Those expenses were **eliminated** when starting May 5, 1980 the Force started to work out of Ferney Street in Dearborn, Michigan **which** was the assigned **headquarters**, according to Carrier. The Ferney Street location **is** approximately one mile from the Detroit City limits.

Petitioner argues that Carrier violated the Agreement when it **moved** the **Signal Gang** from Detroit, Michigan and would not pay the **daily** allowance **mandated by** the rules for **employees required to be** away from their home station. Petitioner insists that the rule designates **Detroit** as the headquarters and Dearborn **is not within** the city limits of Detroit.

Carrier takes the position that the headquarters of the **gang** has **always** been the Ferney Street location in Dearborn and that the parties have **in** practice used the **designations** of Detroit and Dearborn interchangeably. Further, evidence **was** produced that the headquarters **was** never moved and has **been the same as long as anyone can remember.**

The Board finds a significant **flaw** in Petitioner's argument: there is no indication whatsoever as to the location **from** which the headquarters was moved. Further, there is **evidence** of record **which indicates** that the **Ferney** Street location in Dearborn had been the headquarters for the gang for **at least** twenty years. Thus, Petitioner, even if correct in its basic position is some

twenty years late, and is hence estopped from making this **tardy** claim by its **acquiescence** over the many **years of accepted practice.**'

It is apparent **that** both Carrier and Petitioner, based on the **record, have used** the **designations** of Dearborn and Detroit interchangeably over the years for purposes of Rule 217. **Consequently, for the reasons indicated, the Board cannot find that there has been any Rule violation.**

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

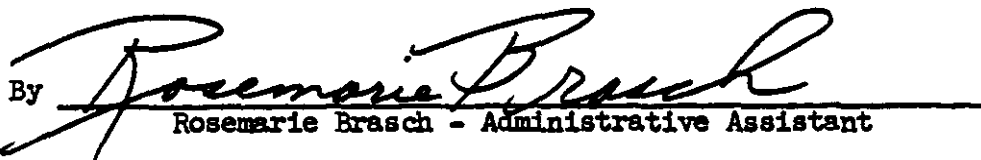
That the **Agreement was** not violated..

A W A R D

claim denied.

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

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

By 
Rosemarie Brasch - Administrative Assistant

Dated at **Chicago, Illinois, this** 14th day of March 1983.