

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number **25191**
Docket Number SG-25357

Paul C. Carter, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(Consolidated Rail Corporation

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood
of Railroad Signalmen on the Consolidated Rail Corporation.

(a) The Carrier violated paragraphs F, G, K **and** L of Section **II** of
the Training Agreement between the parties.

(b) The Carrier should now be required to restore Trainee Wilfred
Gomez to active service with all seniority and other rights and benefits
unimpaired and compensate him for lost wages from **the time** he **was** dismissed
(4-24-82) until date he is restored to active service. [Carrier File No. SD-
1923C]

OPINION OF BOARD: The record shows that Claimant entered the service of
the Carrier as Signal Helper on May 21, 1980, and was
promoted to Assistant Signalman on October 29, 1980. The record contains an
eight-page, single spaced, Appendix R'to the Agreement, setting forth in
great detail a training program for certain signal helpers and Assistant
Signalmen, who would be classified as Signal Trainees.

The claim of the Organization alleges that Carrier violated certain
portions of the Training Program Agreement and that Claimant was dismissed
from service April 24, 1982.' The Carrier denies that Claimant **was** dismissed
on April 24, 1982, but contends that he was treated as having resigned from
service when he failed the re-examination for the completion. of Phase II of
his training for the second time, which was in compliance with Paragraph **H** of
Section II of the Training Agreement reading:

"H. An employee hired after the effective date of
this Agreement who fails to pass a reexamination
will **forfeit** all seniority and he will be considered
as having resigned from the service."

The Organization pursues its contentions before the Board on procedural
grounds, and also contends various violations of the Training Program by the
Carrier, as to the necessity for the re-examination of Claimant, the timing
of such re-examination, the conditions under which it was conducted, and the
method of grading.

The Carrier denies any procedural violation, taking position that the claim was **timely** denied. We consider the Organization's procedural argument to be weak. The record shows that **on** July 13, 1982, the claim was denied by the Supervisor C&S, to whom it had been submitted, well within sixty days from the date submitted, May 31, 1982.

The allegations of the Organization concerning the proper application of the Training Program Agreement, the necessity for the x-examination, timing of such re-examination, method of grading, and the conditions under which the re-examination was given were all raised by the Organization in the process of handling the dispute on the property, and were adequately refuted by the Carrier. The Carrier also refutes such contentions in its Submission.

The burden of proving a violation, **or** violations of the Training Program **Agreement**, is upon the Petitioner. After a careful review of the entire record, we find that the Petitioner has not met that burden. Allegations alone do not constitute proof. The claim will be denied for lack of proof of **an** Agreement violation.

FINDINGS: 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: _____
Nancy **J. Dever** - Executive Secretary

Dated at Chicago, Illinois, this 11th day of January 1985.

