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NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25219
Docket Number SG-25294

Edward L. Suntrup, 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:

System Docket 1846
Northeastern Region Case 06-82-M-0005

Claim on behalf of R. Randazzo, certain other named claimants and "all employees affected during interim" for "monetary rate adjustments...to be determined at the time of settlement with regards to the total number of straight and overtime hours" account some Assistant Foreman/Assistant Inspector positions were abolished and **readvertised** as Maintainers' positions on Seniority District 9.

OPINION OF BOARD: On January 22, 1982 the Local Chairman of the **Brotherhood of Railroad Signalmen**, Local 86, filed a grievance concerning the abolishment of Assistant Foremen and **Assistant** Inspector positions on Seniority District No. 9. These positions were abolished by Carrier Bulletin No. R 12 81 which was dated **December** 23, 1981. It is the contention of the Brotherhood **that** when these positions **were** abolished, and Maintainer positions concurrently bulletined, the Carrier violated working Agreement Rule 5-0-1. This Rule states:

"Established positions shall not be discontinued and new ones created under a different title governing relatively the same class of work for the purpose of reducing the rate of pay **or** evading the application of the rules in this Agreement."

Classifications under the Scope Rule of the Agreement of September 1, 1981 between the parties reads as follows for the job titles in question:

"Assistant Inspector

An employee assigned to assist in the performance of Inspector duties and to perform the work of employees assigned to him.

Assistant Foreman

An employee assigned to assist in the performance of Foreman duties. The Assistant Foreman may perform the work of employees **assigned** to him when the **number** of such employees does not exceed seven (7).

"Maintainer

An employee assigned to perform either signal or communication inspection, testing, maintenance, installation **and** repair work covered by this Agreement within an assigned **territory**."

As moving party in the instant case it is the duty of the Organization to show, by means of substantial evidence, that the Agreement was violated. Factually, the Organization must show that the new Maintainer positions bulletined on December 23, 1981 require the performance of work accruing to the higher classifications cited above.

A review of the record by the Board fails to show any Agreement provisions **which do** not permit the Carrier prerogatives to adjust its number of supervisory personnel. When the Carrier eliminated the Assistant Foremen and Assistant Inspector positions on the date in question it did so because it determined, at that time, that an Inspector at Utica (N.Y.) and one at Oneida (N.Y.) were sufficient to "efficiently handle the involved areas". The Carrier was within its managerial rights when it made this decision. When the new positions of Maintainer were bulletined and bid upon each of these positions and the gangs to which they are part reported to one of those two Inspectors.

The Board **can** also find nothing in the record to show that the new Maintainer positions require the incumbents thereto to perform duties other than those listed in that Classification under the Scope Rule of the **September 1, 1981** Agreement.

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:


Nancy J. Dever - Executive Secretary

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

