

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26271
Docket Number SG-26333

Marty E. **Zusman**, Referee

(Brotherhood of Railroad Signalmen

PARTIES TO DISPUTE: (

(Missouri Pacific Railroad Company

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

Claim on behalf of W. L. Pratt, Jr., for benefits under Article XII of the January 8, 1982 National Signalmen's Agreement, when carrier made an operational and organizational change, effective May 16, 1983, which required him to change his point of employment. (Carrier's file K 225-971)"

OPINION OF BOARD: Claim before the Board centers upon the issue of whether the Carrier had made an operational or organizational change which required Claimant to alter his place of employment. Claimant had been assigned the position of Signal Foreman of Signal Gang 1248, headquartered at DeSoto, Missouri. Carrier abolished Gang 1248 and Claimant assumed a position of Signal Maintenance Foreman 220 miles away at Newport, Arkansas. The change necessitated the sale of a home and associated moving expenses.

The Organization alleges Carrier violation of Article XII which refers to "Changes of Residence Due to Technological, Operational or Organizational changes." It contends that such expenses are due Claimant under the Agreement because the Carrier made operational and organizational changes which necessitated Claimant's change of residence. The Organization notes that after DeSoto Gang 1248 was abolished, the work remained and was performed by other Signal Gangs including Signal Gang 1247, headquartered at Poplar Bluff, **Missouri**. In addition, Gang 1247 was assigned new equipment (a High-Rail pickup) so that it could be divided and perform signal work on the territory of former Gang 1248.

The Carrier maintains that no violation of the Agreement occurred. It is the Carrier's position that Signal Gang 1248 was abolished because of insufficient work to justify the continued existence of the gang. After abolishment, Claimant exercised his seniority to a vacancy at Newport, Arkansas. The force reduction did **not** result from operational or organizational changes which would be subject to Sections 10 and 11 of the Washington Job Protection **Agreement** as included in Article XII of the January 8, 1982 National Agreement. The Carrier argues that said force reductions were necessitated by "diminishing work requirements." In addition, it notes that Gang 1247, headquartered at Poplar Bluff, could always have worked the same territory as abolished DeSoto Gang 1248.

A review of the record demonstrates that both Gang 1247 and Gang 1248 were assigned the same territory. The Carrier asserted such and the Organization agreed and stated in its letter of October 25, 1984, that "there is no rule that prohibits any signal **employe** from working another territory due to the fact that all signal **employees** have system seniority." As such, both gangs had overlapping territories prior to abolishment and no proof has been offered by the Organization that a consolidation of territories occurred. The burden of proof is on the Organization, and lacking evidence of probative value the Claim is denied. This is consistent with past Awards between these parties on this property over the same issue and we find these Awards controlling (Third Division Awards 22135, 23385).

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 Emoloyes 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

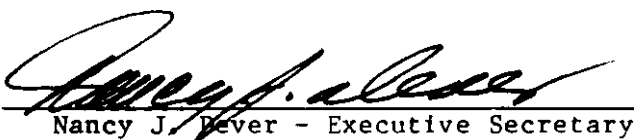
That the Agreement was not violated.

A WA R D

Claim denied.

NATIONAL RAILROAD ADJIJSTMENT BOARD
By Order of Third Division

Attest::


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 20th day of March 1987.