

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD **DIVISION**

Award Number **26498**
Docket Number **MS-26474**

Herbert **L. Marx, Jr., Referee**

(Emmet J. Miller

PARTIES TO DISPUTE: (

(Illinois Central Gulf Railroad

STATEMENT OF CLAIM:

"1. Whether petitioner denied right under Rule 15 was unjustly treated as not allowed P claim to a position.

2. If Section 9 of merger agreement violated whether petitioner entitled for employment and/or transfer to Memphis, TN.

3. Whether petitioner was improperly denied a Rule 24 hearing."

OPINION OF BOARD: Claimant was a Customer Service Representative at the Carrier's Marketing Department Sales Office at Portland, Oregon. He was advised, along with other employees, that the Portland office would be closed in May, 1982. No new positions were established as a result of the closing.

Claimant was advised by letter of May 21, 1982, that he **had** displacement rights under the applicable Agreement with **his** Organization. On August 17, 1982, the Claimant advised the Carrier that he wished to exercise displacement rights to Position 525-C in Minneapolis. By letter of August 20, 1982, the Carrier advised the Claimant as follows:

"Position 525-C at Minneapolis is a C covered position under **the** schedule agreement and management has the right of selection. Therefore, your displacement on position 525-C is not accepted."

There is no record that **the** Claimant sought to obtain any other position, either before or after his August 17 request. The record further shows that Position 525-C is one in which the Carrier has the "right of selection." There was no showing that the Claimant had rights under the **Agreement** to exercise such displacement.

While the Claim includes reference to many other matters, these **do** not require examination by the **Board in** view of the Claimant's lack of right to the **claimed** position.

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 9th day of September 1987.