

The Third Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

(Brotherhood of Railroad Signalmen

PARTIES TO DISPUTE: (

(Southern Pacific Transportation Company (Eastern Lines)

STATEMENT OF CLAIM: "Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Southern Pacific Transportation Company (Eastern Lines):

Claim on behalf of P. Gotthardt and R. L. Polasek for violation of Article VIII, Rule 800, Section (b) of the Signalmen's Agreement when Carrier Officer refused to allow those employees off work to perform union work and thereby interfered (sic) with their rights to represent employees under the Brotherhood's Agreement. Carrier file 31-45-A."

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employees within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

The Claimants herein are Signalmen and serve respectively as Local President/Local Chairman and Trustee of the Organization's Local Lodge. Both Claimants had been granted permission to be absent to attend a Local Lodge meeting on January 18, 1987.

On January 16, 1987, the Claimants sought permission to be absent also for half-days on January 17 "for the expressed purpose of doing Union business." (The Organization states that the purpose was to participate in an annual financial audit of the Local Lodge books.) Permission for these half-day absences was denied.

The Organization argues that such denial was in violation of Rule 800 (b), as well as the Railway Labor Act and seeks from the Board a "cease and desist" order, a letter from the Carrier stating the "Carrier's future intention" and a letter of apology to the Claimants.

Rule 800 reads, in pertinent part, as follows:

"(b) Employees serving as duly accredited representatives of employees covered by this Agreement will be granted necessary leave of absence and given the same consideration in granting necessary free transportation as is given other such representatives for the purpose of handling grievances between employees and the railroad.

(c) Committees representing employees covered by this agreement will be granted the same consideration as is granted committees representing employees in other branches of the service.

(d) All conferences between Carrier officials and Local Chairmen or Local Committeemen of the Brotherhood of Railroad Signalmen will be held during regular working hours without loss of pay to the Local Chairman or Local Committeemen."

It is axiomatic that the Board must confine itself to examination of an alleged rule violation and lacks jurisdiction to consider purported violations of the Railway Labor Act. As argued by the Organization, Rule 800(b) does mandate that Organization representatives "will be granted necessary leave of absence" (emphasis added). This does not permit Carrier discretion. However, the mandate in Rule 800(b) is qualified by the phrase "for the purpose of handling grievances between employees and the railroad." This phrase must not be misconstrued as applicable to conferences between Organization representatives and Carrier officials, since Rule 800(d) addresses such conferences.

It must be concluded, therefore, that Rule 800(b) mandates a leave of absence "for the purpose of handling grievances" apart from conferences between Carrier officials and Organization representatives. The requested leave for January 17 was not in relation to handling grievances. Thus, no rule violation may be found.

From the record, however, it is clear that the parties involved here, as generally true in such relationships, do recognize the need for representatives to absent themselves from work for duties involved with their designated offices. This, however, is a matter of mutual understanding which must consider the underlying rights of those selected to represent employees. In this instance, there was an obvious conflict between representational duties, Carrier work requirements, and perhaps insufficient advance notice. The Board can only suggest (but not require) that the parties review the subject to establish guidelines. As stated above, however, no violation of Rule 800 (b) is found.

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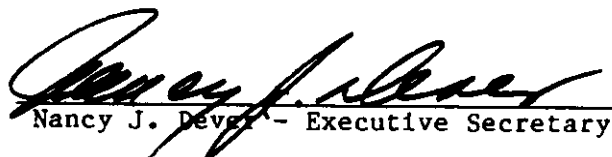
Award No. 27494
Docket No. SG-27158
88-3-86-3-224

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 22nd day of September 1988.