

The Third Division consisted of the regular members and in addition Referee Elliott H. Goldstein when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(Denver & Rio Grande Western Railroad Company

STATEMENT OF CLAIM: "Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Denver & Rio Grande Western Railroad Company:

Case No. 1

Claim on behalf of Signal Maintainer O. G. Creason, headquarters Glenwood Springs, Colorado; assigned territory Mile Post 343.4 to Mile Post 368.6; assigned hours 7:30 AM to 4:00 PM; assigned meal period noon to 12:30 PM; assigned rest days Monday, Tuesdays and holidays.

- (a) Carrier violated the current Signalmen's Agreement, as amended, particularly Article VIII of the Agreement of November 16, 1971, Article XII of the Agreement of January 8, 1982, and Sections 10 and 11 of the Washington Job Protection Agreement of May, 1936, when on or about Wednesday, October 17, 1984, it failed to pay Mr. Creason transfer allowance and moving expense benefits as outlined in the Agreements mentioned above.
- (b) Carrier should now be required to reimburse Mr. Creason for \$545.70 moving expenses as outlined in Section 10(a) of the Washington Job Protection Agreement; compensate him for \$533.20 - five working days pay; and \$400.00 transfer allowance as outlined in Article VIII of the November 16, 1971 Agreement and in Article XII of the January 8, 1982 Agreement; or a total of \$1,478.90."

General Chairman file 24-58. Carrier file SG-7-84.

Case No. 2

"Claim on behalf of Signal Maintainer M. C. Horta, headquarters Colorado Springs, Colorado; assigned territory Mile Post 33.0 to Mile Post 104.7; assigned hours 7:30 AM to 4:00 PM; assigned meal period noon to 12:30 PM; assigned rest days Mondays, Tuesdays and holidays.

- (a) Carrier violated the current Signalmen's Agreement, as amended, particularly Article VIII of the Agreement of November 16, 1971, Article XII of the Agreement of January 8, 1982, and Sections 10 and 11 of the Washington Job Protection Agreement of May, 1936, when on or about Sunday, October 14, 1984, it failed to pay Mr. Horta transfer allowance and moving expense benefits as outlined in the Agreements mentioned above.
- (b) Carrier should now be required to reimburse Mr. Horta for \$225.00 moving expenses, as outlined in Section 10(a) of the Washington Job Protection Agreement; compensate him for \$533.20 - five working days pay; and \$400.00 transfer allowance as outlined in Article VIII of the November 16, 1971 Agreement and in Article XII of the January 8, 1982 Agreement, or a total of \$1,158.20."

General Chairman File 24-57. Carrier file SG-6-84

FINDINGS:

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

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employes 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 sequence of events precipitating the instant dispute stands uncontested. On August 30, 1984, Bulletin No. 1394 was posted advertising a position of Signal Maintainer at Glenwood Springs, Colorado. On September 1, 1984, H. W. Armstrong was relieved of his position as Assistant Signal Supervisor because of an incident which Carrier asserts involved an on-duty accident resulting in injury to an employee. Mr. Armstrong then began taking vacation time as a Supervisor.

September 5, 1984, Carrier posted a notice advising of the territorial change in Signal Supervisor territories.

On September 10, 1984, Bulletin No. 1394 was issued advising assignment of Claimant Horta to the position of Signal Maintainer at Glenwood Springs.

By September 30, 1984, Mr. Armstrong completed his vacation as Supervisor and advised Carrier that he would displace T. L. Foral who occupied the Signal Gang Foreman's position on Signal Gang No. 1.

October 1, 1984, Carrier issued Circular No. 31 advising that the position of Assistant Signal Supervisor at Glenwood Springs was abolished. On that same date, Mr. Armstrong displaced Mr. Foral. Subsequently, Mr. Foral displaced Claimant Creason who occupied the Signal Maintainer position at Bond, Colorado. Claimant, in turn, displaced on the position of Signal Maintainer at Glenwood Springs.

It is the Organization's position that Carrier violated Article VIII of the November 16, 1971 National Agreement, as amended by Article XII of the January 8, 1982 National Agreement, by abolishing the Assistant Signal Supervisor's position and creating a Signal Maintainer's position at Glenwood Springs, Colorado almost simultaneously, and made an organizational change which created a cascade of displacements which required Claimants to move their regular work points.

Carrier denies that such displacements were the result of an operational change as the Employees allege. In the Carrier's view, the displacements were as a result of employees exercising their seniority in a voluntary manner in accordance with the Agreement and not as a result of an operational change.

The Board concurs with Carrier's position. The burden here is on the Organization to show proof of an organizational or operational change in its method of doing business as it relates to the Claimants. (Third Division Award No. 23385.) In the instant case, contrary to what the Organization is contending, we believe that the abolition of the Assistant Signal Supervisor's position did not trigger the protective benefits claimed in this case. Even if one could conclude that the abolition of a position can be taken to constitute a "technological, operational or organizational change," and there are many cases which place that proposition in doubt (see Third Division Award 22496 and Award Nos. 7 and 76 of Special Board of Adjustment No. 605), the record here establishes that it was Mr. Armstrong's exercise of his seniority which must be viewed as the first "link" or "domino" to fall in the subsequent Claim of displacements. That action, as Carrier correctly notes, is not under the purview of the January 8, 1982, National Agreement but under the provisions of the working Agreement. Therefore, the subsequent seniority moves involving Claimants Creason and Horta are not subject to the provisions of Article XII of the January 8, 1982 National Agreement.

As for Third Division Award 22175, heavily relied upon by the Organization, the circumstances present there are clearly distinguishable from the instant case by virtue of the fact that the occurrences on which the Board acted in that case involved the simultaneous abolishment of one gang and the creation of another on the same day. The Board found that this pattern evinced a "coordinated plan of restructuring the Department," thereby constituting an organizational change.

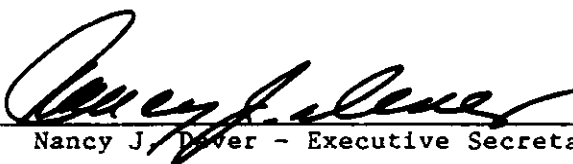
We find no such pattern here or any other indicia which could reasonably be regarded as a "technological, operational or organizational change requiring an employee to transfer to a new point of employment. Accordingly, we must deny the Claim.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dover - Executive Secretary

Dated at Chicago, Illinois, this 29th day of September 1988.