

The Third Division consisted of the regular members and in addition Referee Marty E. Zusman when award was rendered.

PARTIES TO DISPUTE: (Transportation Communications International Union
(Delaware and Hudson Railway Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood (GL-10153) that:

1. Carrier violated the N&W Protective Agreement dated March 21, 1966, as adopted on the Delaware and Hudson Railway Company, when it abolished the position of Agent-Telegrapher at Thompson, Pennsylvania without giving a proper ninety (90) day notice to abolish said position effective with the close of tour of duty on March 15, 1973.

2. Carrier shall now be required to compensate Claimant V. D. Slamas his monthly guarantee, as provided in said March 21, 1966 Memorandum Agreement, for each and every month commencing with January, 1981, continuing so long as the violation is required or permitted to continue.

3. Carrier shall further be required to compensate Claimant V. D. Slamas interest in the amount of 18 per cent compounded annually on the anniversary date of this claim for all monies due in Item 2 supra."

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.

This Board is disposed to consider this issue solely on its merits. The Board finds nothing herein to alter its conclusions reached in Third Division Awards 27854; 27855; 27856; 27857. This Claim is similar to the above claims with respect to the position of the parties.

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89-3-87-3-40

The Board's position remains likewise unchanged. The Organization has failed to meet its burden of proof. There is insufficient probative evidence in the on-property record to find a Carrier violation of the Agreement.

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 13th day of April 1989.