

The Third Division consisted of the regular members and in addition Referee Irwin M. Lieberman when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen  
(CSX Transportation, Inc.  
(former C&O-Pere Marquette District)

STATEMENT OF CLAIM: "Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Chesapeake and Ohio Railway Company (Pere Marquette District):

Claim on behalf of Robert Robertson in that:

(a) Carrier violated the parties' Communication Agreement, as amended, particularly Communication Rules 101, 103(b), 217 and Signal and Communication Rule 808 as evidenced by past practice when it abolished Communication Gang Force 1891 effective close of work January 24, 1986 and re-established such Force 1891 on or about August 18, 1986 without the required position of Communication Foreman.

(b) As a consequence of such violation, including a loss of earning and work opportunities, Carrier be required to (1) advertise a position of Communication Foreman; and (2) compensate cut-back Communication Foreman R. G. Robertson, C&O ID No. 2933468, for the difference between his current hourly rate of pay of \$13.26 and monthly rate for Communication Foreman of \$2813.71 until such time as Carrier takes necessary corrective action to comply with violation cited in part (a) above" G.C. File 86-40-PM. Carrier file 15-101-(86-64)."

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.

By Bulletin dated Jan. 13, 1986, Carrier, due to lack of work, abolished Communications Line Gang (identified as Force 1891) which had been headquartered at Grand Rapids, Michigan. That gang had consisted of a Foreman and four Maintainers. By Bulletin dated July 28, 1986 Carrier advertised two new positions (identified as Force 1891), a Leading Lineman and a Maintainer (Lineman) to be based at Grand Rapids, Michigan, effective Aug. 18, 1986. Pertinent Rules are as follows:

"RULE 101 - FOREMAN

An employee who is qualified to perform and is regularly assigned to duties of supervising the work of other employees covered by Communication Rules 103 to 106, inclusive, and who is not required to regularly perform any of the work over which he has supervision, shall be classified as a foreman."

"RULE 103(b) - LEADING LINEMAN

An employee who is qualified to perform and assigned to work with and supervise the work of one or more maintainers who are qualified and assigned to perform the duties of linemen, with or without assistants and/or helpers, shall be classified as a leading lineman. The number of employees so supervised shall not exceed a total of five (5) at any time.

NOTE: It shall be proper for the Carrier to establish a leading lineman position whose occupant shall operate mechanized equipment. When not operating mechanized equipment, this employee will perform other duties within the scope of a leading lineman's position. The senior applicant for position of leading lineman assigned to operate mechanized equipment will be given ample training in the operating of mechanized equipment he will be required to operate at Carrier's expense."

"RULE 217 - GANG HEADQUARTERS

(a) Headquarters (home station) of the existing line gang shall be Grand Rapids, Michigan. The headquarters of this gang may be changed by Agreement between the Management and the duly authorized representative of the employees.

(b) Additional regular or extra gangs may be created and abolished as the requirements of the service may demand but it is understood that these additional regular or extra gangs will in the event of reduction in forces, be abolished before the gang the headquarters of which are specifically provided for in this Rule, is abolished."

"RULE 808 - RECLASSIFICATION OF POSITIONS

Established positions shall not be discontinued and new ones created under a different title covering relatively the same class of work for the purpose of reducing the rate of pay or evading the application of the Rules in this Agreement."

The Organization argues that Carrier's actions in this matter were in violation of the Agreement (specifically the Rules cited supra) in depriving Claimant of the work opportunity as a Communications Foreman by arbitrarily assigning the work to the position of a Leading Lineman. It is urged that the action of Carrier was an attempt to evade the provisions of Rule 101 and is without precedent in the establishment of a Communication Line Gang without the supervision of a Foreman. It is maintained further that after the gang was reestablished it performed essentially the same type of work as previously and the Leading Lineman performed essentially the same type of supervisory functions as the previously designated Foreman. Petitioner argues that the Leading Lineman Classification Rule does not provide a position to replace a Foreman but rather an employee qualified to complement a Foreman in a subservient role.

Carrier asserts that its actions in establishing the new position of Leading Lineman was proper under the Rules. The new position was required to perform the functions specified in Rule 103(b) as distinct from the work of the Foreman who was assigned to supervise the work of others but was not required to regularly perform the work he supervised. Furthermore, according to Carrier there is no rule requiring that employees covered by Rule 103 be supervised by a Foreman and there is no historic precedent to that effect. In sum. Carrier argues that there is no rule which requires it to establish a Foreman's position instead of a Leading Lineman to supervise the work of one Maintainer (Lineman).

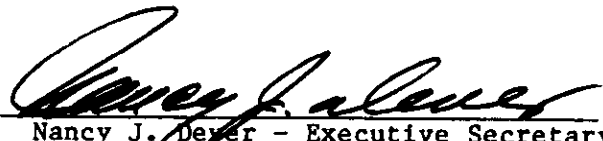
The Board, upon examination of the Rules, determines that it is the Carrier's prerogative to determine when full-time supervision is required. That Carrier right has only been limited by the provision that a Leadman may not supervise the work of more than five employees. There is no rule requiring a Foreman, unless Carrier so determines. In this dispute, the new Leading

Lineman did not perform the same class of work as the Foreman of the abolished line gang. In the previous gang the Foreman devoted full time to supervising the work of the four linemen on the gang; in the new assignment, the Leading Lineman worked with and supervised the work of one Lineman. The Leading Lineman's responsibilities were clearly distinct from and different than those of the Foreman (see Third Division Award 16941). In this dispute, Carrier's assignment was consistent with the provisions of Rule 103(b); the claim must be denied.

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 10th day of August 1989.