

The Third Division consisted of the regular members and in addition Referee Eckehard Muessig when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(Burlington Northern Railroad Company

STATEMENT OF CLAIM: "Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Burlington Northern Railroad Company (BN):

Claim on behalf of Signal Maintainer L. Elliott, headquartered at Loveland, Colorado, to require the Carrier to bulletin his position, account of its violation of the current Signalmen's Agreement, as amended, particularly Rule 28-A, when it failed to bulletin the Loveland position as requested by the General Chairman in his letter of March 4, 1987. G.C. File D-87-446. Carrier file SDI - 870724."

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.

At the outset, the Board observes that the Carrier, as contended by the Organization, has introduced a number of new arguments and materials that were not presented on the property. Accordingly, these may not be considered by the Division in its deliberations on this Claim.

The Board has carefully reviewed the Submissions of the parties as represented by the materials developed on the property. It is apparent that some change was made with respect to the Claimant's territory. Moreover, given the exact language in Rule 28, a "material" change may come about because of an increase or decrease in the territorial limits. Nonetheless, on the basis of the record developed on the property, we find a number of key assertions and counter assertions by both parties which lack an evidentiary basis. Accordingly, we cannot legitimately arrive at a decision on the Claim and, therefore, it is dismissed.

Form 1
Page 2


Award No. 28280
Docket No. SG-28450
90-3-88-3-239

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 28th day of February 1990.