

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
(Consolidated Rail Corporation

STATEMENT OF CLAIM: "Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Consolidated Rail Corporation (Conrail):

'Claim on behalf of A. P. Esposito, for 32 hours pay at his pro-rata rate of pay, account of Carrier violated the current Signalmen's Agreement, as amended, when it allowed or permitted a junior employee to work on a temporary position on July 20, 21, 22 and 25, 1988 at Berea, Ohio. Carrier file SG-36. BRS file Case No. 7746-CR.'"

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 record in this dispute is somewhat ambiguous with respect to the detailed events which took place. However it appears that Claimant had indicated his availability for permanent and temporary positions by letter dated October 21, 1987. On July 15, 1988, Claimant refused certain positions (four in number) which were offered to him, as was his contract right. This dispute evolved because he was not assigned to a temporary vacancy on a welded rail gang in Berea, Ohio, on the four claim dates.

The Organization maintains that Claimant, as a furloughed employee, was to be considered as having bid on any position not requiring a change of residence. In this instance the temporary position at Berea was filled by a less senior employee and it is argued that Claimant was not permitted to bump that junior employee. The Organization relies on Rule 2-A-1 in particular as support for its position.

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Carrier maintains that the parties are in disagreement as to the facts in this matter. Additionally, it is urged that Claimant did not work during the period in question because he chose not to work. Finally, Carrier argues that the Organization has not met its burden of proof in this case.


This dispute involves the filling of a temporary vacancy. The Rule relied on by the Organization, Rule 2-A-1 specifies that it deals only with positions or vacancies anticipated to be more than thirty calendar days in duration. It is clear that the Organization has not cited an applicable Rule in the Agreement dealing with temporary vacancies. Since there is no Rule support indicated for this claim, it 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 25th day of August 1992.