

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 31331
Docket No. SG-31339
96-3-93-3-372

The Third Division consisted of the regular members and in addition Referee James E. Mason 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 D.A. Dunkle for payment of the difference between the Inspector's rate and the Assistant Inspector's rate, beginning April 20, 1992, account Carrier violated the current Signalmen's Agreement, particularly the Classification Rules, when it utilized the Claimant to perform the work of an Inspector and compensated him at the Assistant Inspector's rate. Carrier's File No. SG-475. General Chairman's File No. RM1216-105-782. BRS File Case No. 9139-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 employee 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 single issue to be decided in this dispute is whether or not the Claimant is entitled to receive the Inspector rate of pay for the period of time during which he held a position of Assistant Inspector and allegedly functioned as an Inspector.

The Classification of Work Rule on this property makes a clear distinction between the positions of Inspector and Assistant Inspector. The Inspector is responsible "... to direct the work of employees and to inspect the facilities, equipment or apparatus installed, maintained or repaired by employees under this agreement, and to perform the C&S 27 Tests." The Assistant Inspector, on the other hand, is "... assigned to assist in the performance of Inspector duties and to perform the work of employees assigned to him."

This Agreement language is clear and unambiguous. The Assistant Inspector "... assists in the performance of Inspector duties." The Assistant Inspector does not take the place of the Inspector. Rather, he assists in the performance of the Inspector's duties. The facts of this case clearly show that there was no Inspector even remotely assigned to direct the work of the employees in question or to inspect their work. The Assistant Inspector assisted no one.

Carrier is entirely correct in their position that the Classification of Work Rule is not an exclusive grant of work to any class. They candidly acknowledge that the Classification of Work Rule does, in fact, protect the employee's rate of pay. That is precisely what is involved here.

The Board is not impressed with Carrier's argument relative to an expansion of the claim by the Organization. All arguments, contentions and allegations in this case were made during the on-property handling of the dispute and all parties had ample opportunity to rebut or refute the respective positions before the dispute was listed with this Board. The position of the Organization was adequately outlined during the on-property exchanges and Carrier did not effectively rebut or refute the contentions advanced by the Organization.

Therefore, it is the Board's conclusion on the basis of this case record that the Claimant during the period from April 20, 1992, to May 31, 1992, is entitled to receive the Inspector's rate of pay for the service he performed.

AWARD

Claim sustained.

Form 1
Page 3

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ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 25th day of January 1996.