

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 31683  
Docket No. SG-31711  
96-3-93-3-761**

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

**PARTIES TO DISPUTE: (**  
**(Brotherhood of Way Railroad Signalmen**  
**(Elgin, Joliet & Eastern Railway Company**

**STATEMENT OF CLAIM:**

**"Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Elgin, Joliet & Eastern Railway Company (EJ&E):**

**"Claim on behalf of all Signal employees adversely affected by Carrier's force reduction on June 25 and 26, 1992, account Carrier violated the current Signalmen's Agreement, particularly Rule 42, when it abolished the Claimants' positions and deprived them of the opportunity to perform work during that time period."**

**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.**

These facts are not in dispute and form the basis of this case at bar. By date of June 24, 1992, the Carrier issued a Notice of Force Reduction under Rule 42(b) temporarily abolishing all positions due to a labor dispute. It followed such action with a letter to the General Chairman asserting that due to a national dispute with other carriers there was "an immediate adverse impact on the carrier" which led to a reduction in work necessitating the force reductions. Carrier argued that no compensation was justified under the Agreement.

The Organization asserts that the Carrier violated Rule 42(b) in that there existed no labor dispute with the employees. It argues that there was no strike or pickets on the Carrier's property and as such, Rule 42(a) was applicable. The Organization further maintains that there was no reduction in work and the Claimants could have performed their normal signal work during the disputed period.

Rule 42 has been carefully studied by this Board. We find nothing in that Rule under these circumstances which fails to support the Carrier's actions. Rule 42(b) states:

**"Rules, agreements or practices, however established, that require advance notice before positions are abolished or forces are reduced are hereby modified so as not to require advance notice where a suspension of a Carrier's operations in whole or in part is due to a labor dispute between the company and any of its employees."**

The Board recognizes the Organization's argument that no dispute existed between the Carrier and any of its employees. Such argument has been rejected by this Board in prior disputes (Second Division Award 12787; Public Law Board No. 5426, Award 4). We similarly find that Rule 42(b) is applicable due to the instant facts.

The Carrier presented evidence to support its assertion of July 7, 1992 that the shutdown by other carriers had adversely effected its interchange operations. Those interchange records documented that on June 23, 1992 the total interchange prior to the national strike was 517 cars. On June 24, 1992, as the strike began the number of cars interchanged dropped to 55 cars and on June 25, 1992 there were no cars interchanged.

The Board concludes that no violation of the Agreement occurred. The Awards cited above involve the same Rule and circumstances. The Organization has presented nothing on property to find otherwise.

Arguments on the applicability of Section 4, Article I of the February 7, 1965 Agreement and Public Law 102-306 with respect to compensation are beyond this Board's jurisdiction. Accordingly the claim is denied.

**AWARD**

Claim denied.

**ORDER**

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

**NATIONAL RAILROAD ADJUSTMENT BOARD**  
**By Order of Third Division**

Dated at Chicago, Illinois, this 29th day of August 1996.