

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 31740
Docket No. CL-31178
96-3-93-3-18

The Third Division consisted of the regular members and in addition Referee Dana E. Eischen when award was rendered.

(Transportation Communications International Union
PARTIES TO DISPUTE: (
(National Railroad Passenger Corporation (AMTRAK)

STATEMENT OF CLAIM:

"Claim of the System Committee of the Organization (GL-10916) that:

(a) Carrier violated the CETC/CT Agreement dated April 16, 1987, when on May 14, 1991, it failed or refused to allow Claimant Thomas W. Bombard the protective conditions of said agreement following the phase-in of CETC (Centralized Electronic Traffic Control) and/or CTC (Centralized Traffic Control).

(b) Claimant T. W. Bombard should now be notified of a ten (10) day period in which he will be allowed to elect the reserve status option of this CETC/CTC Agreement without any amendments that may have been negotiated after the completion date of May 14, 1991.

(c) Claimant T. W. Bombard shall be monetarily compensated for unnecessary traveling incurred via the violations of the Agreement from May 14, 1991 to the present. His travel pay and deadheading expenses can be computed from Springfield, MA to New Haven, Connecticut round trip (168 Miles) on the following dates, minus the \$11.00 a day he is now receiving from Meriden to New Haven. Claimant will periodically submit dates other than those listed below and will refer them to this claim using the date of this claim and CETC/CTC violations as a reference:

May 20, 22, 23, 24, 28, 29, 30 and 31.

June 5, 11, 12, 13, 14, 17, 18, 19, 20, 21, 24, 25, 26, 27 and 28.

July 1, 2, 3, 4, 5 and 6"

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 respective 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 were given due notice of hearing thereon.

This dispute centers upon the interpretation and application of certain provisions of an employee protective Agreement between AMTRAK and TCU in connection with the conversion of Northeast segments to CETC/CTC. Under the terms of Article I of that April 16, 1987 Agreement, Carrier was obligated to offer \$25,000 separation allowances to some nine employees in connection with the Phase II segment implementation, i.e., Springfield, Massachusetts, to, but not including, New Haven, Connecticut. At all time pertinent to this case, Claimant was the least senior employee holding an extra Block Operator position on the Meriden, Connecticut, Guaranteed Extra Board, Seniority District #4, protecting Block Operator positions in towers at Springfield, Hartford, Berlin and New Haven.

Under date of April 12, 1991, the Carrier served notice upon the Organization, as follows:

"This is to advise you, pursuant to Article VI of the CETC Agreement, that both the initial and full and complete implementations of CETC in the New Haven to Springfield segment will occur on May 15, 1991."

The operative terms referenced in that letter were defined by the Parties in Side Letter No. 4 to the April 16, 1987 CETC Agreement.

By letters dated April 15, 1991, Carrier offered the Article I separation allowance of \$25,000 to Claimant and some eight other employees in the Phase II area. Apparently four of those employees accepted the separation allowances, of which they were notified on May 14, 1991. Following administrative delays they received the separation payments on or about May 30, 1991 and were terminated from employment and seniority in accordance with Article I.F of the CETC Implementation Agreement of April 16, 1987. With five employees not accepting the separation allowances, this left \$125,000 in allocated monies to be handled through reserve status offers and/or disposition in accordance with Side Letter No. 7 of the CETC Agreement.

Carrier did not make any offer of reserve status on grounds that initial and full and complete implementation had been effected simultaneously on May 15, 1991. Following discussions with the TCU leadership, however, AMTRAK agreed to offer a modified version of reserve status to three of the remaining Block Operators. In addition to voluntary furlough or displacement of a junior Operator or Clerk, these senior employees received an offer of "modified" reserve status, with an additional condition that recall during reserve periods could be to either Block Operator or clerical positions. Claimant and the one other employee on the Meriden, Connecticut, GREB were not offered either "regular" or "modified" reserve status, on grounds that they were not subject to furlough since they remained in their extra positions to cover Block Operator duties at New Haven Tower, which remained in operation after the Springfield-New Haven segment implementation was completed with the elimination of the Springfield, Massachusetts, tower. In that connection, instead of the modified reserve status offers received by the other three Block Operators, Claimant and David Coyne received letters on July 13, 1991 advising, in pertinent part:

"... you are not in a position to be offered reserve status, as you retain a position on the Meriden extra board. Due to the exigencies of service, the Meriden board must remain active in order to protect New Haven tower. In accordance with Article VA of the CETC Agreement, the Meriden positions are to be "reclassified" and placed under the jurisdiction of the TCU-Northeast Corridor Clerical Agreement. The TCU/TC agreement is hereby null and void within this geographical area."

In the meantime, Springfield Tower Interlocking had been cut over to CETC/CTC on May 15, 1991 and Claimant, who resided in Springfield, Massachusetts, and D. Coyne, who resided in Newington, Connecticut, remained on the Meriden, Connecticut, GREB, protecting the Block Operator positions at New Haven Tower until the next segment implementation was full and complete between New Haven and Cranston. The record indicates that, although always subject to cover New Haven off the Meriden, GREB, Claimant had, for the most part, worked in the Springfield Tower for the first five years of his employment with Carrier. However, with the elimination of the Hartford Tower in June 1990, he was displaced from Springfield by senior Operator George Ross, one of the three employees who subsequently was offered and accepted a "modified" reserve status in June 1991.

Once Springfield Tower was eliminated and the three other Block Operators accepted the modified reserve status, Claimant and D. Coyne remained on the Meriden, Connecticut, GREB protecting positions at New Haven Tower. It is not disputed that Claimant, who commuted from Springfield to New Haven, received the travel allowance provided under Rule 4-C-1 (c) from headquarters to his work location.

By letter of July 9, 1991, Claimant initiated the present claim on his own behalf and handled appeals through the steps of handling on the property. The Organization presented the Joint Submission and the ex parte Submission on Claimant's behalf but, at his request, he appeared sua sponte in oral argument before this Board.

Careful analysis of the undisputed facts and clear and unambiguous contract language of the CETC Agreement persuades us that this claim must be denied for lack of contractual support and/or mootness. Even if, arguendo, Claimant had been entitled to, received and accepted a modified reserve status offer, he suffered no contractually recognizable monetary loss. Under the terms of either the "regular" Article II or the modified reserve status, Carrier could have utilized Claimant to cover the New Haven Block Operator positions for a wage of \$480 per week. Instead, Carrier invoked its rights under Article VA and Claimant earned at least the guaranteed rate of \$530.80 per week off the Meriden, Connecticut, GREB. Nor is there any contractual underpinning for the claim for "travel money and deadheading" from Springfield to New Haven, over and above the Rule 4-C-1 (c) travel allowance which he received for travel from his headquarter's point to his work location.

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 24th day of October 1996.