

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 33849
Docket No. SG-34941
99-3-98-3-682**

The Third Division consisted of the regular members and in addition Referee Robert L. Hicks when award was rendered.

**(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(CSX Transportation, Inc. (former Louisville & Nashville
(Railroad Company)**

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Louisville & Nashville Railroad:

Claim on behalf of K.G. Mattingly for payment of the difference between the Foreman’s rate of pay (plus the skill differential) and the rate of any lower-rated position held by the Claimant following his displacement from a Foreman’s position in August of 1997, account Carrier violated the current Signalmen’s Agreement, particularly Agreement No. 15-60-95, when it abolished the signal gang headquartered at Atlanta, Georgia, and caused the Claimant to be displaced from the Foreman’s position. Carrier’s File No. 15(97-223). General Chairman’s File No. 97-SYS-10. BRS File Case No. 10634-L&N.”

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 were given due notice of hearing thereon.

Although not set forth in the Statement of Claim presented to the Board, the Organization in its on-property handling contended that the Carrier erred procedurally when the claim properly filed in the first instance was not responded to by the Carrier official to whom it was obligated to file the claim in the first instance.

The applicable Time Limit on Claims Rule adopted by the parties states:

“... Should any claim or grievance be disallowed, the Carrier shall, within sixty (60) days . . . notify whoever filed the claim or grievance . . . in writing of the reasons for such disallowance. . . .” (Emphasis added)

The Carrier complied with the Time Limit on Claims Rule. A Carrier official issued the disallowance within 60 days of the date the claim was filed. It makes no difference that the Carrier official was not in line for claim handling in this instance.

Regarding the merits argument, the Letter of Understanding cited by the Organization as having been violated, precludes the Carrier from eliminating any of the “present L&N forces to establish the two new L&N gangs established to perform work on the former C&EI.” Thus, to be successful, when the Carrier denied a violation occurred, the Organization’s burden was to establish that the Carrier abolished L&N positions in order to establish two new L&N Gangs to perform work on the former C&EI.

This has not been done. There is no indication that anyone affected by the force reduction was forced to either of the two L&N gangs established to work on the former C&EI.

Under the circumstances, the Organization has not established a prima facie claim of a Rules violation.

AWARD

Claim denied.

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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 21st day of December 1999.