

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 37609
Docket No. SG-37650
05-3-02-3-712**

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

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(Union Pacific Railroad Company)

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Union Pacific (UP).

Claim on behalf of T. D. Clark, for the difference between his current rate of pay and the Senior Communications Technician rate of pay starting on April 2, 2001, and continuing until the Claimant receives the Senior Communications Technician rate, account Carrier violated the current Signalmen's Agreement, particularly the Implementing Agreement dated June 15, 1999, and Side Letters 4 and 6, when it failed to properly compensate the Claimant upon completing his third class with a score of better than 90 per cent. Carrier's File No. 1288482. General Chairman's File No. 110201. BRS File Case No. 12428-MP(Comm).”

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.

At the time the dispute arose the Claimant was working as a Telecommunications employee. On September 6, 2001 the Organization filed this claim on the basis that the Carrier violated the parties' June 15, 1999 Agreement.

The Organization argues that the Claimant should have been paid at the Senior Communications Technician rate of pay after successfully completing his third class of training.

The Carrier argues that on May 25, 1999 it entered into an Implementing Agreement with the Brotherhood of Railroad Signalmen and the International Brotherhood of Electrical Workers. The Implementing Agreement was made in connection with the Union Pacific's merger with the Southern Pacific, and it resulted in the consolidation of telecommunications facilities, work and territories.

Prior to the consolidation, Telecommunications workers had different Rules governing seniority, seniority districts, bulletining, abolishments and classification of work, depending on whether they were represented by the BRS or the IBEW. Pursuant to the Implementing Agreement, all understandings, interpretations and Agreements previously in effect for Telecommunications employees covered by the Agreement with the BRS were nullified, except for Rules and provisions specifically described in the Implementing Agreement. Thereafter, BRS-represented employees came under a Collective Bargaining Agreement that was a mirror image of the IBEW Agreement, with certain exceptions spelled out in the Implementing Agreement.

One of the specific provisions maintained for BRS-represented employees was BRS rates of pay. Section 4A of the Implementing Agreement unequivocally states as follows:

"BRS-represented employees transferring to the new CBA with BRS pursuant to this Agreement shall maintain their current rates of pay for as long as they remain on a BRS-represented position."

The Agreement relied upon by the Organization in this case was made on May 12, 1993.

It is clear that the May 25, 1999 Agreement nullified the May 12, 1993 Agreement. The later dated Agreement reads in part:

"Section 1

- A. As of the effective date of the Agreement, all Telecommunications work and territory of the employees represented by the IBEW and the BRS shall be consolidated pursuant to Section 2 paragraphs D and E. The Collective Bargaining Agreement between the Union Pacific Railroad and the International Brotherhood of Electrical Workers (CBA with IBEW), will be adopted as the new CBA with BRS effective June 15, 1999, for employees covered by the Brotherhood of Railroad Signalmen Collective Bargaining Agreement on the former Gulf District, former C&EI and former Texas and Pacific Railroad (as included in the former Missouri Pacific Railroad Company), effective January 1, 1984 (CBA with BRS). Thereafter, the January 1, 1984 Collective Bargaining Agreement will cease to exist.**
- B. All understandings, interpretations, side letters and agreements applicable to employees covered by the CBA with IBEW will apply to Telecommunications employees covered by the CBA with BRS.**
- C. All understandings, interpretations and agreements previously in effect for employees covered by the CBA with BRS covering Telecommunications work are hereby nullified and superseded as provided in paragraphs A and B hereof as of the effective**

date of this agreement, except those rules or provisions maintained under this Implementing Agreement."

The Agreement was not violated.

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 22nd day of September 2005.