

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 39283
Docket No. SG-39033
08-3-NRAB-00003-050441
(05-3-441)

The Third Division consisted of the regular members and in addition Referee Joyce M. Klein 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 Railroad:

Claim on behalf of S. P. Browne, Jr., to be returned to his position as Leading Signaller on Gang #3934, and for all employees adversely affected by the Claimant’s improper job abolishment to be made whole for all losses in rates of pay or wages inclusive of any overtime lost and all cost for expenses related to moving to another position, account Carrier violated the current Signalmen’s Agreement, particularly Rule 57 B, when it improperly abolished the Claimant’s position on Gang #3934, allowing the Claimant to make an improper displacement that affected other Class One employees as a result of this Agreement violation. Carrier File No. 1405490. General Chairman’s File No. UPGC-1243. BRS File Case No. 13205-UP.”

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.

Signal Gang 3934 consisted of one Signal Foreman, one Lead Signalman and four Signalmen. Effective at the end of the shift on June 3, 2004, the Carrier abolished the Lead Signalman position and the Claimant, the incumbent in that position, exercised his displacement rights in accordance with Rule 58.

The Organization argues that the Carrier violated Rule 57 B when it abolished the Claimant's position even though he was the senior man on Signal Gang 3934. The Organization asserts that the Carrier abolished the Lead Signalman position in order to permit the Claimant to exercise his seniority. The Organization asserts that the Carrier's actions are in direct violation of Rule 57 B which provides, "When force is reduced, the senior man in a class on a seniority district will be retained. When force is reduced on a gang, the position held by the junior employee in the class one gang will be abolished." The Organization explains that Rule 1 provides there are only two classes of signal employees with all signal employees except trainees being in class one. The Organization asks that the Claimant be returned to his previous position and that all employees adversely affected by the improper abolishment of the Claimant's position be made whole.

The Carrier asserts that the Claimant was the only employee in the Lead Signalman classification and it determined that the Lead Signalman classification was no longer needed on Signal Gang 3934 and thus abolished the classification. The Carrier contends that it routinely establishes and abolishes positions such as Assistant Foreman and Lead Signalman without consideration of the incumbent's relative seniority. The Carrier contends that the intent of Rule 57 B was to abolish the junior employee in a classification on a gang to eliminate multiple displacements within the same classification on the same gang. The Carrier asserts that, to the extent the Organization's claim is on behalf of employees who sequentially displaced as a result of the Claimant's displacement, such claims are improper and, in this instance, unsubstantiated. The Carrier argues that the Organization failed to meet

its burden of proof because it has shown no support for its premise that Rule 57 B was violated.

This dispute turns on whether the elimination of the Lead Signalman position on Signal Gang 3934 is, as characterized by the Carrier, a job abolition, or whether it is a reduction in force covered by Rule 57 B. The Carrier's contention that it regularly abolishes positions such as Assistant Foreman and Lead Signalman when they are not needed is un rebutted. In this instance, the Carrier abolished the Lead Signalman position when it was determined to be unnecessary. This situation may be distinguished from a reduction in force where the number of employees is decreased thus resulting in a furlough of the junior employee as provided in Rule 57 B. Because the Claimant's position was abolished as unnecessary, Rule 57 B does not apply. Accordingly, the claim must be 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 21st day of July 2008.