

Award No. 10855

Docket No. SG-10234

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Raymond E. McGrath, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILROAD SIGNALMEN OF AMERICA
ILLINOIS CENTRAL RAILROAD COMPANY**

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen of America on the Illinois Central Railroad Company that:

(a) The Carrier violated Article 8, Section 90, and other provisions of the Signalmen's Agreement when it arbitrarily demoted Signalman J. H. Lougeay to position of Assistant Signalman after he had been properly awarded the Signalman's position and qualified on the position in accordance with the provisions of the agreement.

(b) The Carrier now be required to compensate J. H. Lougeay the difference in Assistant Signalman's pro rata rate of pay and the pro rata rate of pay as Signalman, which is sixteen cents per hour, and all overtime that has occurred on the position which he would have received had he not been arbitrarily removed from the position, at overtime rate of pay from January 25, 1957, until such time as he is properly restored to the Signalman's position, with all seniority and rights restored and unimpaired. (Carrier's File No. 135-703-68, Case No. 33 Sig., 135-322, 135-703-68 Spl., Case No. 29 Sig., 135-703-68 Spl., Case No. 34 Sig.)

EMPLOYEES' STATEMENT OF FACTS: On October 26, 1956, the Carrier issued Bulletin No. 6 to employees of its Signal Department on the St. Louis Division advertising for bids a permanent Signalman position at East St. Louis Hump. The claimant, J. H. Lougeay, having completed eight periods of 130 eight-hour days of service as an Assistant Signalman and/or Assistant Signal Maintainer, was required by the agreement to bid for and offer to promote himself on the bulletined position or forfeit all seniority and rights and be demoted to the Signal Helper's Class, Class 6, never to be promoted above that class again.

Claimant Lougeay submitted bid for the Signalman position advertised by Bulletin No. 6 and being the senior bidder for the position was awarded and assigned to the position by Bulletin No. 6-A, dated November 7, 1956, and

All data in this submission have been presented to the Employes and made a part of the question in dispute.

OPINION OF BOARD: The original claim as set forth by the Brotherhood of Railroad Signalmen of America, reads as follows:

"(a) The Carrier violated Article 8, Section 90 and other provisions of the Signalmen's Agreement when it arbitrarily demoted Signalman J. H. Lougeay to position of Assistant Signalman after he had been properly awarded the Signalman's position and qualified on the position in accordance with the provisions of the agreement.

"(b) The Carrier now be required to compensate J. H. Lougeay the difference in Assistant Signalman's pro rata rate of pay and the pro rata rate of pay as Signalman, which is sixteen cents per hour, and all time that has occurred on the position which he would have received had he not been arbitrarily removed from the position, at overtime rate of pay from January 25, 1957, until such time as he is properly restored to the Signalman's position, with all seniority and rights restored and unimpaired." (Emphasis ours.)

In the record appears the following statement in the Organization's ex parte submission:

"The claim of seniority and rights to the Signalman position is now before this Board in our NRAB-629-I.C. This claim only embraces the rate of pay and overtime accruing on the Signalman position which the claimant was demoted from in violation of the agreement." (Emphasis ours.)

Case NRAB-629-I.C. above referred to, has been filed as a claim before the National Railroad Adjustment Board Third Division Supplemental Docket Number SG-10233. The parties to this dispute are the Brotherhood of Railroad Signalmen of America and the Illinois Central Railroad Company, the same as the parties to the dispute under consideration. The claim filed in that case arises out of the same set of facts as the case which is before us at this time.

The claim in that case reads as follows:

"(a) The Carrier violated Article 5, Section 66, and other provisions of the Signalmen's Agreement when it failed and/or refused to demote Assistant Signalmen H. E. Williams, H. E. Johnson, D. R. Forby, W. F. Lindsey, and C. E. Heern to Signal Helpers when they refused promotion to Signalman position issued in Bulletin No. 6, dated October 26, 1956, after each had completed eight periods of 130 eight-hour days of service as Assistant Signalmen, as provided in Article 3, Section 35, of the agreement.

"(b) The Carrier further violated the Signalmen's Agreement on December 17, 1956, when following a formal investigation held December 7, 1956, it demoted only the senior Assistant Signalman cited above, who was H. E. Williams, to Signal Helper and permitted the remaining Assistants to work and hold seniority in the Assistant's Class.

"(c) The Carrier further violated the Signalmen's Agreement on or about January 25, 1957, when after having demoted H. E. Williams to Signal Helper on December 17, 1956, for declining promotion, it arbitrarily appointed him to the Signalman's position awarded to J. H. Lougeay by Bulletin No. 6-A dated November 7, 1956, and

demoted J. H. Lougeay to Assistant Signalman position the same date, causing him to forfeit all seniority he had accumulated in the Signalman's class and reducing his rate of pay to Assistant Signalman. Such action by the Carrier violated Article 8, Section 90, of the Signalmen's Agreement.

"(d) The Carrier now be required to demote the employees cited in part (a) of this claim to Signal Helpers as provided in Article 5, Section 66, of the agreement and **return J. H. Lougeay to the position of Signalman at East St. Louis Hump, with all seniority and rights restored and unimpaired.**" (Emphasis ours.)

Award No. 10354 in that case reads in part as follows:

"That hearing was waived and under date of January 31, 1962, the parties jointly addressed a formal communication to the Secretary of the Third Division requesting withdrawal of this case, which request is hereby granted."

It is necessary to determine whether or not the Claimant has a right to be restored to the signalman position with all seniority and rights restored and unimpaired, before this Board can determine whether he should be compensated. A determination of this issue will affect the rights of others on the seniority rosters. We think that this Board cannot consider part of this claim in one case and another basic part of the claim in another case. The Claimant has in effect withdrawn from the consideration of the Board in this case this basic issue as to whether or not the Claimant has a right to be restored to the signalman position with all seniority and rights in connection with this position, and it is impossible to reach a conclusion on that part of the claim which the Claimant is now asking the Board to decide without reaching a conclusion as to this basic issue.

This claim is therefore referred back to the property for further conferences so that this claim may be presented and adjudicated in toto and not in part.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier and the Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

AWARD

Claim remanded.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 19th day of October 1962.