

Award No. 11518
Docket No. SG-13085

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Wesley Miller, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

CENTRAL OF GEORGIA RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Central of Georgia Railway Company:

(a) That the Carrier violates the Signalmen's Agreement of July 1, 1950, Rules 6 (a), 6 (b), 37, 64, and any other applicable rules, under Bulletin J-27-60 of September 9, 1960.

(b) That J. R. Estes, Jr., Traveling Signal Maintainer be paid for all time lost account of work which has been assigned to him being placed on three other junior employees. One of these junior employees not coming under the classification of Traveling Signal Maintainer. This time to begin as of September 17, 1960, and to continue until such time as this violation is corrected.

(c) That J. J. Andrews, hourly-rated Signal Maintainer with headquarters at Columbus, Georgia, be paid the difference in his pay as hourly-rated Signal Maintainer and the rate for the position of Traveling Signal Maintainer beginning September 17, 1960, and to continue until such time as this violation is corrected.
[Carrier's File No.: SIG 456]

EMPLOYEES' STATEMENT OF FACTS: The claims in this case arose as a result of the Carrier improperly abolishing a position of Traveling Signal Maintainer with headquarters at Columbus, Georgia, on September 16, 1960, and improperly re-distributing the Traveling Signal Maintainer's territory among junior employees after the job had been improperly abolished.

One of the Claimants in this dispute, Mr. J. R. Estes, Jr., is the Brotherhood's General Chairman on the Central of Georgia. He held a job as a Relay Repairman prior to July 1, 1958, at which time his job was abolished. At that time, he bid in and was awarded a position as Traveling Signal Maintainer at Macon, Georgia.

Then, on August 12, 1958, the Carrier issued Bulletin No. J-9-58 in which a position of Traveling Signal Maintainer with headquarters at Columbus, Georgia, was advertised. See Brotherhood's Exhibit No. 1.

the burden of proof is upon the party making the claim, and where competent proof is lacking a sustaining award is improper. * * *,”

“AWARD

“Claim denied.”

Third Division Award 6379 (Kelliher):

“The Petitioner has failed to sustain its burden of proof to show a contract violation.”

“AWARD

“Claim denied.”

Third Division Award 6378 (Kelliher):

“Based upon an analysis of all the evidence, it must be found that the petitioners have failed to sustain the burden of proof and, therefore, claim is accordingly denied.”

“AWARD

“Claim denied.”

Third Division Award 5418 (Parker):

“ * * * Under our decisions (see e.g., Award No. 4011), the burden of establishing facts sufficient to require or permit the allowance of a claim is upon him who seeks its allowance and where that burden is not met, a denial Award is required for failure of proof.”

“AWARD

“Claim denied.”

And there are many other Awards of the Board on this point, too numerous to mention.

In view of all the facts and circumstances shown by the Carrier in this Ex Parte Submission, Carrier respectfully requests the Board to deny this baseless claim in its entirety.

Carrier, not having yet seen the Employees' Ex Parte Submission, reserves the right, after the Employees have set forth their position to the Board, to present such additional evidence and argument as it deems necessary.

All facts submitted in support of Carrier's position in this case have been presented orally or by correspondence to the duly authorized representative of the Employees, and made a part of this dispute.

(Exhibits not reproduced.)

OPINION OF BOARD: After carefully studying the record and the argumentation presented for and in behalf of the parties, we do not find that Carrier violated any rule in the effective Agreement.

We are of the belief:

That Carrier had the contractual right to abolish the position held by Claimant Estes.

That the position of Claimant Andrews was not changed from that of a "Signal Maintainer" to that of a "Traveling Signal Maintainer."

Consequently, the Claim must be denied in its entirety.

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

That the Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 14th day of June 1963.