

Award No. 11703

Docket No. SG-11246

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Nathan Engelstein, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

LOUISVILLE AND NASHVILLE RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Louisville and Nashville Railroad Company that:

(a) The Carrier violated the current Signalmen's Agreement, as amended, especially Rule 46, when it failed to advertise and fill a vacancy that was created on or about May 10, 1957, when Signalman Virgil Bellomy was awarded another position.

(b) The Carrier now assign Mr. H. D. Faller a seniority date in the Signalman class as of May 10, 1957.

(c) The Carrier now compensate Mr. H. D. Faller the difference in pay between Signalman and that of a Signal Helper from May 10, 1957, until November 18, 1957 (when he was assigned to position of Assistant Signalman), and for the difference in pay between Signalman and Assistant Signalman from November 18, 1957, until December 12, 1957, when the vacancy was filled by Bulletin No. 1338.
[Carrier's File: G-364-3, G-364]

EMPLOYEES' STATEMENT OF FACTS: Prior to May 10, 1957, Mr. Virgil Bellomy was the regular assignee of a permanent Signalman position on System Gang No. 1. On Eastern Kentucky Division Bulletin No. 53, dated May 10, 1957, he was awarded a temporary Helper position on the Eastern Kentucky Division, his home seniority district. This award created a temporary Signalman vacancy on System Gang No. 1, but instead of bulletining and filling that vacancy, the Carrier issued Bulletin No. 1299, dated May 24, 1957, on which the Carrier stated that the temporary Signalman's vacancy caused by Mr. Bellomy's assignment to a temporary position was being abolished. On Bulletin No. 1337, dated December 2, 1957, the Office of General Signal Construction Foreman advertised a permanent Signalman position that was shown to have been vacated by V. Bellomy, who had been awarded a permanent position on Division. Under date of January 26, 1958, Mr. Tom McCamy, General Chairman, presented a claim to Mr. C. S. Cates, General Signal Construction Foreman, as follows:

"It has been called to my attention that when Signalman Virgil Bellomy was awarded a position on his home district, (the E. K. Divi-

in a temporary signal helper's position at Hazard, Ky. And, instead of advertising your temporary vacancy of signalman in System Gang No. 1, it was abolished.

"Therefore, when released from the temporary assignment you cannot go back to a position that does not exist.

"You will be a displaced employe and will exercise such rights as provided in Rule 33. That means you may exercise your seniority rights to displace a junior employe if you so desire.

Fraternally yours,

/s/ Tom McCamy
General Chairman.

cc: Mr. J. F. Wiseman
Mr. T. H. Gregg
Mr. W. S. Scholl
Mr. E. E. Gaines."

Carrier submits the foregoing facts show conclusively that there is no merit to any claim in behalf of Claimant H. D. Faller.

All matters referred to herein have been presented, in substance, by the carrier to representatives of the employes, either in conference or correspondence.

OPINION OF BOARD: It is the judgment of the Board that the claim was not filed within the time limit provisions of the Agreement of August 21, 1954.

The record shows that the claim which the General Chairman filed in writing on January 26, 1958 stated that the Agreement was violated by Carrier on May 10, 1957. The time interval is clearly well beyond the limitation set forth in Section 1 (a) of Article V which reads as follows:

"(a) All claims or grievances must be presented in writing by or on behalf of the employe involved to the office of the Carrier authorized to receive same, within 60 days from the date of the occurrence on which the claim or grievance is based."

The claim is therefore barred from consideration. This decision is in accord with Third Division Awards 8564 and 9189.

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 Employes involved in this dispute are respectively Carrier and Employes 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 claim is barred.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 9th day of August 1963.