

Award No. 12032

Docket No. SG-11586

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Michael J. Stack, Jr., Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

THE PENNSYLVANIA RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Pennsylvania Railroad Company that:

(a) Management violated Article 4, Section 20(b), of the current T. & S. Agreement when they, by Bulletin No. 489, dated April 4, 1958, withdrew position advertised as T. & S. Foreman and position of Signaller D-2-S, both positions with headquarters at New Castle, Pa.

(b) W. H. Stanford, reduced from a position in the Foreman's class account of force reduction, be paid the Foreman's rate of pay for all time worked from April 16, 1958, and until the position is awarded as required by the agreement.

(c) The senior bidder for position D-2-S be allowed all expense incurred by him account having to work another position away from New Castle, Pa., the headquarters of position D-2-S, from April 16, 1958, and until position is properly awarded. [Docket No. 81—Lake Region Case No. LR-25603]

EMPLOYEES' STATEMENT OF FACTS: Under date of April 4, 1958, the Carrier issued Bulletin No. 489 advertising three Signaller positions and one Foreman position for seniority choice. That bulletin has been reproduced and is attached hereto and identified as Brotherhood's Exhibit No. 1.

On April 15, 1958, the Carrier issued Bulletin No. 490 awarding two of the positions advertised in Bulletin No. 489 and showing the other two positions as being withdrawn. Bulletin No. 490 has been reproduced and is attached hereto and identified as Brotherhood's Exhibit No. 2.

When Bulletin No. 490 was issued, Mr. K. R. Husted, senior bidder for Signaller position D-2-S advertised on Bulletin No. 489, was working a Signaller position at Akron, Ohio. That position was a five-day assignment, with Saturdays and Sundays as rest days. As the Carrier failed to make an assignment on an advertised position, Mr. Husted submitted Form G 24-A,

CONCLUSION

The Carrier has shown that under the provisions of the applicable rules of the controlling Agreement and the Railway Labor Act, as amended, the Third Division, National Railroad Adjustment Board, should deny the claim in this case. The Carrier has shown that no valid basis exists for a finding by this Board that the Agreement was violated under the circumstances heretofore related, but on the contrary, facts have been established showing that the Agreement and Board interpretations have specifically recognized the propriety of Carrier's actions in this case. Therefore, your Honorable Board is requested to deny the Employees' claim in this matter.

The Carrier demands strict proof by competent evidence of all facts relied upon by the Employees, with the right to test the same by cross-examination, the right to produce competent evidence in its own behalf at a proper trial of this matter and the establishment of a proper record of all of the same.

All data contained herein have been presented to the employee involved or to his duly authorized representative.

(Exhibits not reproduced.)

OPINION OF BOARD: This case is the same in all material respects as in Docket Number SG-11585, Award Number 12031. We adopt the opinion therein as determinative of the issues in this case.

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 19th day of December, 1963.