

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Harold M. Weston, 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) The Carrier violated and continues to violate the Agreement of July 1, 1950, when, on April 20, 1961, Bulletin J-2-61 was issued cutting off certain jobs in the signal gang. Mr. C. C. Carter was cut off effective May 5, 1961, in violation of the intent and meaning of Rule 37 and any other applicable rules.

(b) Effective at the close of work on May 5, 1961, Mr. C. C. Carter be paid the difference in the rate of pay as Assistant Signal Maintainer, on which job he is working, and the rate of pay of Signalman, on which job he should have been retained. This claim to continue until such time as this violation is corrected.

(c) The senior Assistant Signalman or Assistant Signal Maintainer, who has been deprived of work on account of this violation, be paid for all time lost at his regular rate of pay, and for any overtime made at the overtime rate of pay, account of being displaced in violation of the agreement.

[Carrier's File: SIG 468 Docket SIG 8727]

EMPLOYES' STATEMENT OF FACTS: The Carrier has a construction gang which includes positions of Assistant Signalmen, Leading Signalmen and Signalmen, among others. Under date of April 20, 1961, Carrier issued Bulletin No. J-2-61, which advised that five (5) Assistant Signalmen positions, one (1) Leading Signalman position, and one (1) Signalman position would be abolished at the close of work week, Friday, May 5, 1961.

The Signalman's position abolished was not filled by the junior employee in that class. The position abolished was held by C. C. Carter, who was senior to B. F. Jones, Jr. The latter's position was not abolished, although he was the junior employee in the Signalman class holding a position in the construction gang. Both employees had common headquarters, duties, hours and other working conditions, as they were members of the same gang.

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.

(Exhibits not reproduced.)

OPINION OF BOARD: We have examined the record with care, and find that the facts presented therein do not support Petitioner's contention that a violation of the Agreement has occurred. The claim accordingly must be denied.

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 26th day of July 1965.