

Award No. 14216
Docket No. SG-13916

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Arthur Stark, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

SOUTHERN PACIFIC COMPANY
(Pacific Lines)

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

(a) The Southern Pacific Company violated the Memorandum of Agreement (SIG 116-56) signed November 30, 1960, between the Southern Pacific Company and the Brotherhood of Railroad Signalmen, particularly Section 7(b) on page 4.

(b) Mr. M. D. Carter and Mr. E. C. Spence be allowed two (2) days' pay at their regular rate of pay for moving from their places of residence to the Sacramento area in accordance with the Memorandum of Agreement. [Carrier's File: SIG 180-3.]

EMPLOYEES' STATEMENT OF FACTS: Some time prior to 1958, the Carrier advised the Brotherhood that it anticipated utilizing the West Oakland (California) Signal Shop facilities for performing work for the entire system, then abolishing the San Jose (California) and Sacramento (California) Signal Shops, but retaining the Shops at Brooklyn (Oregon), Los Angeles (California) and El Paso (Texas). Subsequently, an agreement was negotiated to provide how the changes were to be made, and how future positions in the remaining shops would be filled. A copy of that agreement is attached hereto as Brotherhood's Exhibit No. 1. As shown therein, the provisions of that agreement were to apply when the proposed changes were actually made.

In the meantime, the Carrier changed its plans, decided to utilize the Sacramento Signal Shop for performing work for the entire system, and abolish the San Jose and West Oakland shops. A new agreement was negotiated November, 1960 to cover this change of plans, and a copy is attached hereto as Brotherhood's Exhibit No. 2.

The new signal shop facilities at Sacramento were placed in service on or about June 16, 1961. Therefore, Brotherhood's Exhibit No. 1 is an agreement that is void. Brotherhood's Exhibit No. 2 is the agreement that was placed in effect, and is the one involved in this dispute. Both of these agree-

Department employees on Carrier's Western, Coast, Sacramento, Shasta and Salt Lake Divisions by Signal Department Notice No. 2 dated July 28, 1961. (Carrier's Exhibit C.) The following appeared as a footnote on that bulletin:

"All Concerned:

Have five (5) Assistant Signelman positions available at Signal Shop — Sacramento. Advise your Signal Supervisor if you desire to accept one of these positions."

Two employees in cut-off status on Carrier's Western Division — M. D. Carter and E. C. Spence (hereinafter referred to as "the Claimants") — made request, which was accepted, for two of the assistant signalmen positions mentioned next above.

5. By letter dated October 16, 1961 (Carrier's Exhibit D), Petitioner's Local Chairman submitted claim to Carrier's Signal Engineer on behalf of Claimants identified above for two days' pay at their regular rate of pay account moving to the Sacramento area, basing the claim on paragraph 7 of Memorandum of Agreement of November 30, 1960.

By letter dated October 19, 1961 (Carrier's Exhibit E), Carrier's Signal Engineer denied the claim, pointing out that Claimants were not involved in the initial move to System Shop at Sacramento, as contemplated by paragraph 1 of Memorandum of Agreement of November 30, 1960, and therefore not entitled to compensation claimed.

By letter dated November 6, 1961 (Carrier's Exhibit F), Petitioner's General Chairman appealed the claim to Carrier's Assistant Manager of Personnel, and by his letter of January 22, 1962 (Carrier's Exhibit G), the latter denied it.

(Exhibits not reproduced.)

OPINION OF BOARD: The issue here is whether Claimants Carter and Spence, both Western Division employees, were entitled to two days' pay for moving to the Sacramento area in July 1961. Their claim must be resolved in accordance with the terms of the parties' November 30, 1960 Memorandum of Agreement which provided, in relevant part, as follows:

"In the immediate future the Company proposes to utilize Signal Shop facilities at Sacramento for performing work for the entire system. Upon establishment of such shop at Sacramento the existing signal shops at West Oakland and San Jose will be abolished; shops at Brooklyn, Los Angeles and El Paso to be retained.

When the above proposal is placed in effect, the following will govern:

1. Employees in the Signal Shops at San Jose and West Oakland will be given the opportunity to fill initial vacancies in the shop at Sacramento. In filling these positions at Sacramento three-fifths of the positions will be filled by employees of the West Oakland shop and two-fifths of the positions by employees of the San Jose shop, without the necessity of advertising the positions for seniority choice.

Initial vacancies not filled in the above manner shall be advertised for seniority choice to the employees of the Western and Coast Divisions. . . .

3. All future new positions and vacancies in the signal shops shall be filled in accordance with Rules 50, 51 and 52 as follows:

(a) Positions at Brooklyn will be filled by Portland Division employees;

(b) Positions at Sacramento will be filled by Western, Coast, Sacramento, Shasta and Salt Lake Division employees; . . .

7. Each employee affected shall be given forty-five days' notice prior to consolidating of the shops, and each employee who within six months from date shops are consolidated moves to the Sacramento area due to closing of West Oakland and San Jose signal shops in accordance with Sections 1 and 2 of this Agreement shall:

(a) Be paid actual personal expense for himself and his family, not to exceed \$100.

(b) Be allowed two (2) days' pay at his regular rate of pay to move from his present residence to his place of residence in the Sacramento area.

(c) Be reimbursed for all costs (including insurance against loss or damage) of moving his household effects from his present residence to his place of residence in the Sacramento area."

On April 20, 1961, pursuant to this Memorandum of Agreement, notices were posted at West Oakland and San Jose concerning the establishment of various Signal Shop positions at Sacramento, effective June 19, 1961. Each notice contained a statement that "assignment to above-listed initial vacancies will be filled . . . without advertising for seniority choice, per paragraph No. 1, Memorandum of Agreement dated November 30, 1960."

On July 28, 1961 Carrier advertised vacancies in five Assistant Signalman positions at the Sacramento Signal Shop. This advertisement was directed to Signal Department employees on Carrier's Western, Coast, Sacramento, Shasta and Salt Lake Divisions. Claimants, both on furlough at the time, obtained two of these jobs and subsequently moved to Sacramento.

The 7 (b) moving allowance of two days' pay was designed exclusively for "each employee who within six months from date shops are consolidated moves to the Sacramento area due to closing of West Oakland and San Jose signal shops in accordance with Sections 1 and 2 of this Agreement . . ." (Emphasis ours.) Section 2 is not relevant here since it dealt with Foremen positions. But Section 1, insofar as Western and Coast Division Men were concerned, clearly covered only "initial vacancies not filled in the above manner . . ." (Emphasis ours.) There is no evidence whatsoever that the positions filled by Claimants were initial Sacramento vacancies. In fact, the "initial vacancies" were specifically identified in Carrier's April 20, 1961 Notice and

Claimants never grieved that they were improperly denied the right to fill such positions.

Petitioner argues that Section 7 applied to all employees who moved to the Sacramento area within six months from the date of consolidation. It suggests that the absence of a six-month proviso from a prior abortive Agreement supports that assertion. But we cannot agree. Sections 7 and 1 are neither unclear nor ambiguous insofar as entitlement to moving pay is concerned. That benefit was not designed for all men who moved within six months. If, indeed, that had been the parties' intent, they could have found simple words to express it.

It is apparent, moreover, that the vacancies filled by Claimants were of the type described in Section 3 ("future new positions") and which, pursuant to sub section (b), were to be filled from among employees in five divisions, not just two (as was true of Section 1 initial vacancies).

For these reasons the claim 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 November 30, 1960 Memorandum of 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 3rd day of March 1966.