



Award No. 16264

Docket No. SG-16629

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John J. McGovern, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

**NEW YORK CENTRAL RAILROAD, EASTERN DISTRICT
(Except Boston & Albany Division),
AND NEW YORK DISTRICT**

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the New York Central Railroad Company (Buffalo and East) that:

(a) Carrier violated the current Signalmen's Agreement, and the Vacation Agreement of December 17, 1941 as amended, when it arbitrarily assigned vacation dates to Signal Employees of the Grand Central Terminal and Electric Sub-Division Seniority District during 1965.

(b) Carrier be required to allow the following listed Signal Employees of the Grand Central Terminal and Electric Sub-Division Seniority District compensation at their individual respective rates of pay for the positions held at the time the Vacation Schedule was made for the number of days for each, indicated below, representing pay for vacation period requested and arbitrarily denied by the Carrier.

H. Pekary	LSM Gang B	15 days	T. J. Moran	SM Gang A	10 days
R. F. Campbell	SM Gang B	10 days	G. Verdi	SM Gang C	10 days
F. C. Flynn	SM Gang B	10 days	S. Tuzeo	LSM Sec. 4	5 days
L. Jenter	SM Gang B	5 days	R. Leis	SM Gang C	10 days
W. D. Barrett	LSM Gang B-1	15 days	C. R. Relyea	SM SS-DB	15 days
W. McCall	SM Gang B-1	10 days	A. Jamieson	SM SS-U	20 days
J. V. Bimonte	SM Gang B-1	10 days	G. Friedman	SM SS-A	5 days
P. Casatelli	SM Gang B-1	10 days	J. J. McCarthy	SM SS-A	10 days
J. Dellinger	LSM Gang A	10 days	C. R. Ahlert, Jr.	SM SS-A	10 days
H. G. Bartel	SM Gang A	5 days	L. S. Polizotto	SH SS-MO	10 days
T. G. Kovacs	SM Gang A	10 days			

EMPLOYEES' STATEMENT OF FACTS: This dispute arose when Carrier unilaterally issued instructions relative to the granting of vacations during the year 1965 to employees of the Grand Central Terminal and Electric Sub-Division Seniority District. It culminated in a claim on behalf of the twenty-one (21) employees who were adversely affected by the instructions and had their vacation dates arbitrarily assigned by Carrier.

Upon completion of the schedule on this seniority basis, the signal supervisor advised the Local Chairman of the Brotherhood of Railroad Signalmen accordingly, and indicated he was ready to jointly work out any parts of the schedule that did not meet with his approval. The Local Chairman refused to come in and discuss the proposed vacation schedule so long as the Carrier maintained a limit on the number of men who could be on vacation at any one time. Carrier's signal supervisor thereupon placed the vacation schedule in effect.

On June 7, 1965, the Organization presented the claim filed in this dispute to the Signal Supervisor which was denied on June 15, 1965. The claim was progressed through the agreed to appeal stages up to and including Carrier's highest appeals officer who denied it on October 26, 1965. Carrier has reproduced the denials made by the District Engineer and the Assistant General Manager-Employee Relations as Carrier's Exhibit "A."

Carrier has also reproduced as Carrier's Exhibit "B," a statement showing the three choices requested by the 48 signalmen and the vacation periods to which they were assigned.

(Exhibits not reproduced.)

OPINION OF BOARD: The Brotherhood in this case alleges that the Carrier has violated the current Signalmen's Agreement and the Vacation Agreement of December 17, 1941, as amended, more specifically Article 4(a) of the latter Agreement, which reads

"4.(a) Vacations may be taken from January 1st to December 31st and due regard consistent with requirements of service shall be given to the desires and preferences of the employees in seniority order when fixing the dates for their vacations.

The local Committee of each Organization signatory hereto and the representatives of the Carrier will cooperate in assigning vacation dates."

The facts giving rise to the instant claim are as follows: The Signal Supervisor sent out a form asking each employee to give his preference for a vacation period. The form requested that each employee list three choices of dates for their individual vacation. Information contained on the form indicated that the Carrier felt that 10% of the employees on any roster would be allowed to be on vacation during the same period; that on rosters of less than 10 people, only one employee could be on vacation during that period and only one employee at any time in their respective gang or section. Upon receipt of the aforementioned forms from the individual employees, the Signal Supervisor prepared a schedule giving the senior men their preferences insofar as possible. After assigning vacations in accordance with each man's seniority, the Supervisor contacted those men who had asked for vacation dates conflicting with the senior men and requested their preference as to the remaining dates available, still adhering to the principle of seniority. After the schedule was compiled, the Supervisor asked the Local Chairman for a conference for the purpose of going over the schedule, to either approve or disapprove of the dates as shown. The Chairman refused to discuss the matter with the Supervisor as long as the Carrier maintained a limit on the number of men who could be on vacation at any one time. Once it became apparent

that the Chairman would not meet with the Supervisor, the latter issued the schedule and the employees took their vacations on the dates indicated.

The Chairman and the Brotherhood maintain that the Carrier did not "cooperate", as that term is used in Article 4(a) of the Vacation Agreement and have cited a number of awards interpreting the aforecited Article.

From a review of the correspondence in this docket, we feel that if there was in fact a lack of cooperation, it would have to be on the part of the Brotherhood. Carriers' representative gave the Chairman every opportunity to confer with him on the vacation schedule. This was not a unilateral action on the part of the Carrier; rather it was preliminary work which had to be accomplished before any meaningful conference could be held. Each case presented to us by the Organization is distinguishable from the instant one on a factual basis. Whether one side or the other failed to "cooperate" in any given case, would have to be decided of course on the facts peculiar to that case. The facts in this case do not warrant a finding by this Board that Carrier in any way violated the Agreement. We will deny the claim.

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 by the Carrier.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 30th day of April 1968.

Dissent to Award 16264, Docket SG-16629

This Award falls far short of giving effect to the plain everyday definition of the word cooperate; therefore, I dissent.

G. Orndorff
Labor Member

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