



Award Number 17589

Docket Number SG-17910

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Don Gladden, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

PENN CENTRAL COMPANY

(Formerly New York Central Railroad Company, Boston & Albany
Division of the Eastern District)

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Boston and Albany Railroad (New York Central Railroad Co., Lessee) that:

- (a) Carrier violated the current Signalmen's Agreement, particularly Article I, Section 4, of the February 7, 1965 Mediation Agreement, account on Monday, July 17, 1967, positions were abolished without giving the required sixteen (16) hours' advance notice.
- (b) Carrier be required now to pay the following named employees one day's pay at their respective rates:

F. G. Schultz
F. G. Monte
D. M. O'Brien Jr.,
J. C. Whitman
J. W. Broderick
C. J. Seeley
T. J. Cahill
R. O. Stalker
R. D. Riffelmacher
W. B. Zisk
L. M. O'Brien
W. G. Kie
E. B. Bennett
R. B. Hansen
G. E. Hunt
E. F. Koski
G. A. Hultman
H. O. Lahti
R. L. Ford
R. A. Racette
J. T. Kiley
M. F. McLaughlin

E. M. Burrill
W. C. Lane
F. L. Loughran
R. J. LaFrance
T. M. McGrath
W. F. Byrnes
F. E. Locke
R. F. Higgins
R. J. Tarte
R. J. Tomasetti
J. L. Angell
W. R. Garvin
J. A. Brady
J. F. Ness, Jr.
H. J. Spellman
J. R. Guthro
J. F. Lynch
B. J. O'Donnell
W. D. Hall
E. E. Fegreus
E. A. Daley
J. F. Garvin

(Carrier's File: 114-B (SG67.7))

tour of duty following the termination of the strike. Further, employees whose positions were temporarily suspended and who exercised displacement rights to positions continued in existence would likewise return to the positions they held at the beginning of the strike. Also, in the event of a strike, existing vacation schedules would be maintained. This strike did not materialize at 6:00 A.M., April 12, 1967, but was postponed until June 19, 1967 as requested by the President. Late in the afternoon of Sunday, July 16, 1967, Carrier was verbally notified that the strike which had been deferred would become effective on all System properties at 12:01 A.M., July 17, 1967. On this short notice, Carrier representatives immediately telephoned all available Non-Operating General Chairmen, including General Chairman Tarte and advised them of the action of the Shop Craft unions. These General Chairmen were also informed that the agreed upon procedure for the temporary suspension of positions would be automatically activated at 12:01 A.M. on July 17, 1967 with appropriate notices to be posted advising the employees. Such notices were posted all over the System as soon as practicable after the Shop Craft General Chairmen notified the Carrier of their strike action.

On July 17, 1967, Public Law 90-54 was enacted, reinstating and extending the restrictions of the final paragraph of Section 10 of the Railway Labor Act and providing for compulsory settlement of the dispute. Notice of this legislation was sent out to the strikers, who then began to return to work, all of them returning within a few days.

On July 27, 1967, Signalmen's General Chairman Tarte submitted claims to the Carrier in behalf of named employees claiming one day's pay for Monday, July 17, 1967 contending that when they, upon reporting for work, were told that their positions were abolished, Carrier allegedly was in violation of Article I, Section 4, of the February 7, 1965 Agreement.

On August 24, 1967, Carrier denied these claims on the basis that positions in the Signal Department, as well as positions in all other non-operating branches of service, were temporarily suspended on July 17, 1967, not abolished, in accordance with agreement reached between the Organization and Carrier in the event of a strike by the members of the Shop Craft unions.

On May 21, 1968, the Organization submitted these claims for decision to Special Board of Adjustment No. 605, in accordance with Article VII of the February 7, 1965 Agreement.

On the same date, May 21, 1968, the Organization submitted these same claims for decision to the Third Division.

OPINION OF BOARD: The issue as handled on the property charged Carrier with violation of Article I, Section 4 of the February 7, 1965 Agreement.

The same issue was presented to the Disputes Committee provided for in Article VII, Section 1 of the February 7, 1965 Agreement, and has now been disposed of by Award #115 of Special Board of Adjustment #605. Therefore, we will dismiss the Claim as presented in Docket SG-17910.

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.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 25th day of November 1969.