

Award No. 18140
Docket No. MS-18607

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

PARTIES TO DISPUTE:

MR. J. W. HULSMAN

READING COMPANY

STATEMENT OF CLAIM:

1. The Reading Company Railroad abolished a position held by claimant, then under scope of American Train Dispatchers Association.
2. The carrier violated Article 26 in the current agreement between Reading Company Railroad and T. C. E. U., when it denied claimant the right to claim position of Relief Towerman at Pottsville Junction, but required claimant to return to position or status of Extra Telegrapher.
3. Claimant, after being assigned to position on Telegraphers Extra Board, even though under a guaranteed monthly wage, has suffered loss in wages and therefore made claim to one day's pay at the prevailing rate of position involved for each date held off said position.

OPINION OF BOARD: Claimant, a telegrapher, contends that Carrier violated Article 26 of the Telegraphers' Agreement when it required him to revert to the status of an extra employe under the following circumstances:

Claimant Hulsman occupied a position of Second Trick Chief Train Dispatcher in the Reading, Pennsylvania, office. His telegraphers' seniority and rights were protected and provided for in Article 26 of the Telegraphers' Agreement. Carrier, in a general re-arrangement of its train dispatching facilities, abolished claimant's position and bulletined a number of positions in a new office. Claimant Hulsman was the successful bidder for a train dispatcher's position. After being awarded such position he reported off sick, then took two weeks' vacation, after which he chose not to accept the new position and resigned from the ranks of train dispatcher. His telegrapher seniority remained intact. He sought to exercise that seniority by displacing the regular occupant of a telegrapher position at Pottsville Junction, claiming that he had a right to do so under Article 26. Carrier declined his request and, instead, required him to revert to the status of an extra telegrapher.

Article 26, so far as pertinent, reads as follows:

"(b) Employes covered by paragraph (a) of this Article whose positions are abolished or because of reduction in force can no

longer hold a regular position in the class to which promoted or who are disqualified from such promoted positions, returning to positions within the scope of this agreement may exercise seniority rights in accordance with paragraph (a) of Article 27 or paragraphs (c) and (d) of Article 21.

Employes voluntarily relinquishing such positions upon returning to the scope of this agreement will revert to the status of an extra employe."

Claimant contends that a right to displace a telegrapher arose when his position in the promoted class was abolished, regardless of any other fact.

This contention cannot be sustained. It is contrary to the well known rule of construction that requires a contract provision to be read and applied as a whole so as to give effect to the intent as expressed by all the language.

Claimant did not lose a right to a regular position in the class to which promoted, but voluntarily relinquished such position. The second paragraph of Article 26(b) plainly requires reversion, under such circumstances, to the status of an extra telegrapher.

Carrier's action, therefore, was in accordance with the rule, and the claim will be denied.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

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 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 30th day of September 1970.

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