

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20180
Docket Number SG-19811

Irwin M. Lieberman, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(Chicago and North Western Railway Company

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Chicago and North Western Railway that:

The Carrier retroactively compensate Signalmen J. P. Casserly and E. A. Lindahl under Section III of the parties' Agreement of December 23, 1969, for travel time and automobile mileage on the basis set out in Section I-C of their December 23, 1969 Agreement, for 5,092 miles each. [Carrier's File: 69-16-77-79]

OPINION OF BOARD: At the outset, Carrier contends that this Board has no jurisdiction over this dispute since the matter involves an interpretation of language taken from the Award of Arbitration Board 298. Both Carrier and Petitioner agree that this claim is expressly based on the provisions of the Agreement dated December 23, 1969 which was adopted to implement the Award of Arbitration Board 298. We do not agree with Carrier's contention. The genesis of language in an agreement may have considerable significance in its interpretation but has no bearing whatever in the matter of this Board's jurisdiction. It is well known that the language contained in arbitration awards may frequently be incorporated in collective bargaining agreements; however such circumstances do not preclude this Board from asserting jurisdiction (unless specifically limited by agreement) and interpreting such language. See Awards 19075 and 19801 which deal with completely analogous circumstances.

Carrier urges further that this Board has no jurisdiction to consider the Claim since an adjustment of the dispute was made on the property. The statute provides two prerequisites for assumption of jurisdiction: that the claim be handled in the "usual manner" and that having been handled in this fashion the parties have failed to reach an adjustment (Award 643 (2nd Division) and 18520). The parties are in disagreement as to whether the adjustment reached on the property included the dispute herein.

Under Article V of the Award of Arbitration Board 298 the Organization had the option of accepting the benefit provided by that Award or of continuing, in lieu of that alternative, the benefits contained in the existing Agreement. On December 23, 1969 the parties executed an Agreement incorporating certain provisions of the Arbitration Award and certain other provisions. Article III

of the Agreement of December 23, 1969 provided inter alia, that the General Chairman and the Signal Engineer shall determine the retroactive amounts due the employees under the Agreement. All of the claims were handled by the two officials culminating in a letter from the Signal Engineer to the General Chairman, dated September 11, 1970 confirming the retroactive settlements for all employees affected except six signalmen, including the two Claimants herein. There followed a period of further negotiation culminating in a meeting on March 1, 1972 and a letter dated March 30, 1972, which stated in its first paragraph:

"Confirming understanding of March 1, 1972 the remaining unresolved issues, which under Article III of the Agreement of December 23, 1969 were to be disposed of between you and me, are resolved by the following monetary allowances:...."

The letter sent by the Signal Engineer, then specified payments to four signalmen, not including the two Claimants herein, and was signed in concurrence by the General Chairman. In the meantime, on February 29, 1972 the Organization's President notified this Board of its intention to file a submission before the Board in the dispute, with a copy to Carrier. Petitioner's position with respect to this issue rests on Carrier's failure to seek a withdrawal from the Board by the Organization at the time of the March 30th letter and further on Carrier's filing of a submission of its position with the Board. From these two facts Petitioner concludes that Carrier was aware that the dispute with respect to Claimants had not been resolved by the meeting on March 1, 1972 and the subsequent letter.

The Board cannot speculate with respect to possible communication gaps or errors within Petitioner's or Carrier's organizations nor can we delve into what the General Chairman or the Signal Engineer had on their minds when they reached an understanding, later confirmed, on March 1st. We can and must, however, ascribe meaning to the words in the letter above. We take the words "remaining unresolved issues" under Article III to be clear and unambiguous. We conclude therefore that this dispute has been adjusted on the property and the Board lacks jurisdiction to deal with it.

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 Board lacks jurisdiction over the dispute involved herein.

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Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Paulos

Dated at Chicago, Illinois, this 15th day of March 1974.

Dissent to Award 20180, Docket SG-19811

We have searched the record of the handling of this dispute on the property and do not find that the point upon which the Majority has relied was there made an issue in the dispute. To give consideration to such matters is contrary to our established procedure and has produced an erroneous award. I dissent.


W. W. Altus, Jr.
Labor Member