

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20363
Docket Number SG-20042

Joseph A. Sickles, Referee

(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(Louisville and Nashville Railroad Company

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Louisville and Nashville Railroad Company that:

On behalf of T. A. Hamilton, improperly assigned Signal Maintainer, Gang S-9, for expenses beginning January 4, 1971, and continuing thereafter until Hamilton is returned to his regular assignment of Signal Helper. The expenses are listed as follows:

Meals - \$23.00 per week
Lodging - \$16.00 per week since March 8, 1971
Travel - \$24.30 per week.

/Carrier's File: G-381-2/

OPINION OF BOARD: On December 17, 1970 Carrier advertised for bid a Signal Maintainer position. No bids were received, and on December 28, 1970, the Claimant (a Signal Helper) was assigned to the position. It appears that Claimant did not have seniority in the Signaller's class at the time.

We have thoroughly reviewed the entire record. Repeated careful study compels us to conclude that it consists primarily of assertions and denials, without compelling evidence submitted by either party to support the contentions and conclusions. Nonetheless, two (2) facts appear to be undisputed:

(1) At the time Claimant was assigned to the Signal Maintainer Position, in December, 1970 all concerned considered the assignment as proper based upon claimants' assumed seniority standing.

(2) When the position was rebulletined in October, 1971, Claimant was the successful applicant.

Aside from the items stated above, the record, as previously noted, affords little or no probative evidence. Accordingly, the Board has no appropriate method of resolving the conflicting assertions and is therefore unable to reach a decision on the merits. Under these circumstances, we must dismiss the claim.

This dismissal is limited to a consideration of the record before us, and should not be considered, in any manner, as establishing a precedent concerning any other dispute.

This dismissal makes it unnecessary for the Board to rule on Carrier's contention that the Claim was not properly filed in a timely manner.

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 claim be dismissed.

A W A R D

Claim dismissed in accordance with the Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. W. Paulke
Executive Secretary

Dated at Chicago, Illinois, this 23rd day of August 1974.