

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20368  
Docket Number SG-20072

David P. Twomey, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen  
(Southern Pacific Transportation Company (Pacific Lines)

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Southern Pacific Transportation Company that:

(a) The Southern Pacific Transportation Company violated NMB Case A-8811 and A-8811 Sub 1, by failing and/or refusing to allow Mr. R. R. Duni-  
van the retroactive pay provided by the Joint Resolution for all time worked  
for Carrier from January 1, 1970 to May 31, 1971.

(b) Mr. R. R. Duni-  
van promptly be allowed the retroactive pay pro-  
vided by Joint Resolution S. J. 100 for all time worked for Southern Pacific  
Transportation Company during period January 1, 1970 through May 31, 1971.

Carrier's File: SIG 188-22-17

OPINION OF BOARD: The Claimant alleges that he was improperly denied retro-  
active pay for the period of January 1, 1970 to Nov. 23,  
1970 in violation of NMB Case A-8811 and A-8811 Sub 1 and the Joint Resolution  
of Congress of May 18, 1971. The Claimant contends that there are no excep-  
tions as to who should receive the retroactive pay in the Joint-Resolution which  
could serve to exclude him from receiving such back pay, even though he volun-  
tarily resigned from service on November 23, 1970 and returned to work with  
Carrier on January 17, 1971.

In order for Claimant to prevail before this Board, he must show an  
Agreement violation. The pertinent agreement, Mediation Agreement, Article I,  
Sec. 9(c)-(4), provides:

"(4) All employees who had an employment re-  
lationship after December 31, 1969 shall receive the amounts  
to which they are entitled under Article I regardless of  
whether they are now in the employ of the carrier except per-  
sons who prior to the date of this Agreement have voluntarily  
left the service of the Carrier other than to retire or who  
have failed to respond to a call-back to service to which they  
were obligated to respond under the rules agreement." (emphasis  
supplied).

Under the clear terms of the above quoted provision, Claimant who voluntarily  
left the service of the Carrier on November 23, 1970, is not entitled under the  
Agreement to the retroactive pay in dispute.

Claimant's case before us rests on the contention that the Joint Resolution of Congress gave him rights distinct from the above discussed Agreement rights; and this claim is before us seeking enforcement of these legislatively created rights.

It is unquestionably settled that this Board is not empowered to interpret the laws of Congress. This Board has no discretion in this matter nor may we advise parties as to optional courses to pursue. The Claimant shall not be prejudiced by this decision.

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 claim is denied without prejudice.

A W A R D

Claim denied without prejudice.

NATIONAL RAILROAD ADJUSTMENT BOARD

By Order of Third Division

ATTEST:

A. W. Paulos  
Executive Secretary

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