

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21611  
Docket Number SG-21265

Dana E. Eischen, Referee

PARTIES TO DISPUTE: ( Brotherhood of Railroad Signalmen  
( The Long Island Rail Road Company

STATEMENT OF CLAIM: Claim of the General Committee of the Railroad Signalmen on the Long Island Rail Road:

On behalf of R. J. Waidler, who was denied the occupancy of the Signal Foreman position at Valley Tower when Mr. G. Gilmor was on vacation April 15 to 27, 1974, (position was covered by J. Bryan and J. Gabrus, who do not possess or enjoy any seniority in the Assistant Foreman or Foreman class), the difference between his pro-rata rate and that of the Valley Tower Signal Foreman position, and any overtime that was enjoyed by the aforementioned Signalmen during the period (Carrier records will reflect this). Also, as a result of Mr. Waidler covering positions of this type during Foreman vacations in the past, the present seniority roster should reflect Mr. Waidler's Foreman seniority, including dates.

· [Carrier's file: SG-9-74]

OPINION OF BOARD: The crux of this case is Claimant's contention that Carrier wrongfully failed to accord him a Foreman seniority date prior to August 21, 1974 on which date he was assigned to a bulletined Foreman position. Claimant asserts that as early as June 25, 1973 he was entitled to a Foreman seniority date because he alleges he relieved Foremen on and after that date at various times. Additionally he contends the Agreement was violated because other similarly situated employees were afforded seniority dates earlier than his when they relieved Foremen positions. As remedy for the alleged violation Claimant seeks a Foreman seniority date of June 25, 1973 instead of August 21, 1974. Also Claimant demands compensation in the amount of the difference between his pro-rata rate and that of the Valley Tower Signal Foreman position for the period April 15 to 27, 1974. Apparently the monetary claim is premised upon the assumption that "but for" the alleged improper withholding of his Foreman seniority date he would have covered that position while the incumbent was on vacation.

Close scrutiny of the controlling Agreement language, Rules 32 and 33 (13 and 10 in the new Agreement) together with the record developed on the property shows that there is no merit in this claim. The contract plainly and unambiguously provides that Group 1 Foreman and Group 2 Assistant Foreman shall constitute separate seniority classes. This clear delineation for seniority purposes is not altered by the semantic or vernacular twist whereby Group (1) and (2) sometimes are referred to as the "Foreman Class". Nor does the fact that Rule 33(10) permits an employee assigned to Group 1 to acquire seniority in both Groups 1 and 2 assist Claimant herein because the dual seniority accrual does not work the other way i.e. an employee assigned to Group 2 does not under the language of Rule 33(10) accrue seniority also in Group 1.

The record shows indisputably that Claimant prior to August 21, 1974 occupied a bulletined position as "Assistant Foreman-Vacation Relief". Claimant has no entitlement to Foreman's seniority on the basis of holding this Group 2 position. Nor does the record contain any probative evidence to support his claim on any other basis. We have no choice but to deny the claim for failure to sustain the requisite burden of proof.

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;

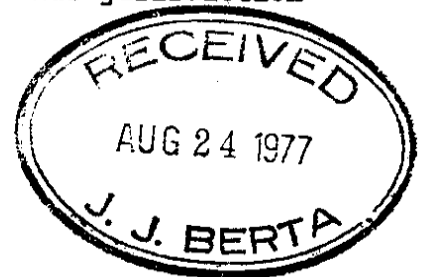
That the Carrier and the Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Agreement was not violated.

A W A R D

Claim denied.



NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST:

A. W. Pauls  
Executive Secretary

Dated at Chicago, Illinois, this 29th day of July 1977.