

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22496
Docket Number SG-22281

Louis Yagoda, Referee

PARTIES TO DISPUTE:

(Brotherhood of Railroad Signalmen
(
(The Atchison, Topeka and Santa Fe
(Railway Company

STATEMENT OF CLAIM:

"Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Atchison, Topeka and Santa Fe Railway Company:

Claim on behalf of Signal Foreman D. A. Sage for moving expenses and transfer allowance as outlined under Appendix 10 of current Signalmen's Agreement, as amended (changes of residence due to technological, operational or organizational changes) when caused to exercise displacement rights between Alvin and Temple, Texas, because of abolishment of position at Alvin, Texas, effective July 1, 1976." [Carrier file 14-1300-40-11/

OPINION OF BOARD:

The parties join issue on whether the abolishment of Signal Gang No. 42 at Alvin and the consequent movement of Claimant to Signal Gang No. 41 at Temple was caused by a "technological, operational or organizational" change within the meanings of those words as used in Appendix No. 10.

Organization regards as significant the fact that Appendix 10 begins with the words "When a carrier makes...a change..." It regards the situation under consideration as one which met this condition of Carrier instigation and initiation. That is, the Carrier's action of abolishing Signal Gang No. 42 at Alvin could only have the consequence of Claimant's use of the only recourse left open to him - invoking his seniority which, in turn, made inevitable his necessity to domicile himself at Temple. Organization comments: "Certainly, no reasonable person would contend that Appendix 10 was to be interpreted in such a manner that employes would be encouraged to forfeit their seniority as Signalmen merely to relieve the Carrier of its obligation to pay the moving and transfer allowances provided herein."

Organization also points out that Claimant could not conform to the change-of-residence-not-required exception in Appendix No. 10 for changes not exceeding 30 miles from original reporting point because he did not have sufficient seniority to displace any employee within 30 miles of the abolished position.

Organization identifies a number of Awards which it regards as having sustained claims made for circumstances of the same general characteristics as the instant one particularly Award Number 22175, Third Division.

Carrier characterizes Organization's posture as implying that Point Headquartered Gangs have territorial assignments and the abolishment therefore having improperly changed said assignment. But it points out that no pertinent Agreement rule contains any restriction against assigning Point Headquartered Gangs at any location on their seniority district. The gangs at Temple and Alvin were on the same seniority district.

Carrier also calls the Board's attention to the first words in Section 8 of the Point Headquartered Agreement: "Employees obtaining assignments in point headquartered gangs when initially established...shall," etc. No gang was established, initially, or otherwise on or about July 1, 1976. Claimant whose job was abolished in force reduction, merely exercised his seniority and displaced the Signal Foreman at Temple.

Carrier regards it as noteworthy that when Point Headquartered Gang No. 42 was established at Alvin on August 16, 1976, there were no claims from, or on behalf of, any employee who then obtained assignment in that gang. It comments: "Obviously, the Organization agrees with Carrier that that was not an initial establishment of a Point Headquartered Gang.

Carrier's principle attack on Organization's position is that it has failed to establish that the abolishment of Signal Gang No. 42 was the result of a "technological, operational or organizational change." It is not disputed that the cessation of the barely-begun crossing gates work at Alvin, Texas was a temporary suspension of said work to reduce expenses and that the work there was resumed about 1½ months later. No signal projects belonging to

the Southern Division were assigned, in the interim, to the Temple, Texas Signal Gang. There was no change in the organization of, methodology of or configuration of existing work or any technological substitution or modification of its handling.

Carrier calls the Board's attention to a number of Awards which it regards as having denied similar claims under similar circumstances, particularly Award Nos. 7 and 76 of Special Board of Adjustment No. 605, wherein it was held that an abolished position was neither a technological, organizational nor operational change within the meaning and intent of the governing Agreement clause thereon.

We find ourselves in agreement with the principles enunciated by Board of Adjustment No. 605 and are of the opinion that the circumstances in the instant claim conform basically to those dealt with by said Board in reaching denial conclusions. Board of Adjustment 605 acted in response to the terminology ("...a technological, operational or organizational change requiring an employe to transfer to a new point of employment...") of a 1965 Agreement. When the parties herein used the same terminology in their November 1971 Agreement, they were necessarily adopting also the interpretation thereof which had become fact and obligation by the Awards of Special Board of Adjustment No. 605.

As for Third Division Award 22175, the circumstances present there are distinguishable from the instant situation by reason of the fact that the occurrences on which the Board acted in that case involved the simultaneous abolishment of one gang and the creation of another on the same day. The Board found that this pattern evinced a "coordinated plan of restructuring the Department" and thus, in the Board's opinion, constituted an "organizational change" compelling Claimants to transfer to a new point of employment.

We find no such pattern here nor any other persuasive indicia which could reasonably be regarded as a "technological, operational or organizational change requiring an employe to transfer to a new point of employment" and, because of that, subjecting him to the costs and burdens compensable by the protective benefits of Appendix No. 10 and the Washington Job Protection Agreement.

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 24th day of August 1979.