

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23231
Docket Number MS-22977

James F. Searce, Referee

PARTIES TO DISPUTE: (Flora M. Sheehan
(
(Southern Pacific Transportation Company (Pacific Lines)

STATEMENT OF CLAIM:

1. The Southern Pacific Transportation Company violated the Clerks Agreement when it abolished Position 79, Lead Clerk, by Notice No. 547, and also issued Notice No. 546 abolishing Positions No. 50, 51, 52 and 1 from Roster 2 and transferring the work thereof to Portland Communications - Clerks Basic Roster 7;
2. The Southern Pacific Transportation Company shall now be required to allow Mrs. F. M. Sheehan eight (8) hours additional compensation, May 24, 1977, and each calendar day thereafter except Saturdays and Sundays;
3. The Southern Pacific Transportation Company shall now be required to restore Position 79, Lead Clerk, to Portland Communications - Roster No. 7, and to restore work and/or positions of Manager and Wire Chief Positions Nos. 50, 51, and 52 and Relief Position No. 1 to Basic Roster PD-2 and Master Roster No. 3.

OPINION OF BOARD: The dispute in this case arises out of the Carrier's abolishment of four (4) wire chief positions at its Portland "DW" Telegraph Office and the transfer of such work to four (4) new wire chief positions to be established elsewhere and, more importantly, on a different seniority roster. Intent of such impending change was conveyed to the Organization, which was to be accomplished per the applicable provision -- Article III, Section 2(a):

"When a carrier party hereto desires to transfer positions and/or work between seniority rosters, districts and/or regions on its own lines, or when a carrier party hereto desires to transfer positions and/or work to another carrier party hereto, 90 days' advance notice will be given appropriate General Chairman or General Chairmen. Such notice shall contain the following detailed information: ..."

Objection was raised by the Organization after such rearrangement, contending a violation of Article III, Section 2(c):

"This section covers only transfer of positions and/or work as referred to in this agreement and shall not be applied so as to result in consolidation or elimination of rosters."

After handling on the property, the Organization determined not to pursue the matter further; the Claimant herein -- the affected employee - chose to do so.

Without addressing the one or more procedural defenses raised by the Carrier to this Board's authority to review this matter -- raised in light of the Organization's judgment not to advance it, we can dispose of the matter summarily by pointing out that while presenting a well-prepared submission, the Claimant has not demonstrated any violation of the Rules by the Carrier in effectuating an Agreement ("TOPS") developed between it and the Organization theretofore. The use of terms "historically" and "traditionally" by the Claimant imply past practices which stood undeveloped on the record. In any case, the burden is upon the initiator to demonstrate noncompliance with applicable Rules -- a burden not carried by the Claimant's arguments. Under the circumstances, this Board finds no basis to affirm the Claim and relief sought herein.

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;

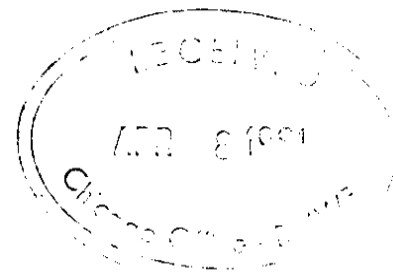
That the Carrier and the Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act, as approved June 21, 1934;

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 dismissed.



NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A.W. Paulsen
Executive Secretary

Dated at Chicago, Illinois, this 16th day of March 1981.