

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23961
Docket Number SG-23960

Ida Klaus, Referee

PARTIES TO DISPUTE: { Brotherhood of Railroad Signalmen
{ Chesapeake and Ohio Railway Company
{ (Pere Marquette District)

STATEMENT OF CLAIM: "Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Chesapeake & Ohio Railway Company (Pere Marquette District):

(a) Carrier violated and continues to violate the C&O Railway Pere Marquette District Communication Agreement, particularly Rules 200, 201, 202, 203, 207, 208, 505, 506, 701 and 908, when on or about July 24, 1978 positions of Electronic Repairman on Force No. 1809 - Grand Rapids, and Force No. 1802 - Dearborn, Michigan, were changed from first shift assignment to second shift assignment without proper negotiations.

(b) Carrier should now be required to place Claimants E. Tabor and D. A. Sayed back on their first shift assignments until the parties' Agreement has been complied with. In the meantime, Carrier should compensate Claimants, or their successors, at their time and one-half rate for all hours worked after 4:30 p.m., Monday through Friday, starting on or about July 24, 1978, less time already allowed. Overtime rate requested here is to be in addition to monthly rate contemplated by Rule 701. The claim to commence July 24, 1978 and continue thereafter until Claimants are returned to their first shift assignment or the violation is corrected.

(c) Carrier should, in the event the claim is sustained, check its records jointly and in cooperation with Representatives of this Brotherhood to determine the number of man hours worked by Claimants after 4:30 p.m., Monday through Friday, in aiding to determine the amount of compensation due Claimants."

(General Chairman file: 78-40-PM. Carrier file: SG-561)

OPINION OF BOARD: While the Organization has relied on a number of rules, the primary basis of its claims is Rule 202 of the Agreement, captioned "Starting Time".

The claims arose when the Carrier abolished two first shift Electronic Repairman positions at two locations and advertised two Electronic Repairman positions for the second shift at the same locations.

The Organization asserts that Rule 202 required prior negotiation at the local level for the shift change and that the Carrier's unilateral action therefore violated that requirement.

Upon review of the record and analysis of the provisions of Rule 202, the Board concludes that the Organization has failed to support its position by persuasive probative evidence.

Rule 202(c) provides for mutual agreement between the signal supervisor and the local chairman only where an "Exception to the starting time of other than the first shift" is to be made. That provision is not applicable to the record facts before us. With respect to these facts, we discern nowhere in Rule 202 an obligation of the Carrier to negotiate before making a change in shift or establishing a second shift. That determination has been left to the managerial discretion of the Carrier.

The claims will be denied.

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

Claims denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: Acting Executive Secretary
National Railroad Adjustment Board

By Rosemarie Brasch
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 16th day of August 1982.