

The Third Division consisted of the regular members and in addition Referee Dana E. Eischen when award was rendered.

(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(Grand Trunk Western Railroad Company

STATEMENT OF CLAIM: "Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Grand Trunk Western Railroad Company (GTW):

On behalf of Signal Maintainer J. A. Fessenden, formerly headquartered at Lapeer, Michigan.

(a) Carrier violated the parties Agreement, as amended, particularly Article XII, of the National Signal Agreement of January 8, 1982 when it refused to allow Claimant J. A. Fessenden the benefits spelled out therein when Carrier required him to move his residence from the Lapeer, Michigan area to the Lansing, Michigan area.

(b) Carrier now be required to allow Claimant J. A. Fessenden the benefits spelled out in Article XII referred to above including actual moving expenses, five (5) days pay and transfer allowance of \$400.00. General Chairman file: 82-25-GTW. Carrier file: 8390-1-42"

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employes within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

When this Claim arose, Claimant was holding regular position of Signal Maintainer on a territory headquartered at Lapeer, Michigan and he resided in the vicinity of Lapeer. Under date of February 5, 1982, Carrier changed the territorial limits of all 21 Signal territories on its Chicago Division, specifically including Lapeer, as follows:

"Signal Territory with Headquarters at Lapeer will be changed as follows: Eastward ABS Signal 2824 up to and including Westward Interlocking Signal Imlay City."

By letter of February 15, 1982, the Organization requested Carrier to bulletin under Rule 65 the Agreement-covered positions assigned to cover the materially changed Chicago Division Signal territories:

"RULE 65

When a change is made in the location of an employee's headquarters, or when assigned rest days are changed, or when the territorial limits are materially changed, the position will not be re-bulletined as a new position unless requested in writing by the General Chairman within twenty (20) days from the date of change."

After the rebulletining and rebidding, a more senior employee displaced Claimant from his position on the newly defined Lapeer territory and he therefore exercised his seniority to place onto a different position headquartered at Lansing, Michigan. Lansing, Michigan is located some 74 miles one-way from Claimant's former residence at Lapeer, Michigan. Rather than commute roundtrip 148 miles daily to work at Lansing, Claimant moved his residence from Lapeer to Lansing. Subsequently he applied for expense reimbursement under Article XII of the 1982 National Agreement dated January 8, 1982:

"CHANGES OF RESIDENCE DUE TO TECHNOLOGICAL OPERATIONAL OR ORGANIZATIONAL CHANGES

When a Carrier makes a technological, operational or organizational change requiring an employee to transfer to a new point of employment requiring him to move his residence, such transfer and change of residence shall be subject to the benefits contained in Sections 10 and 11 of the Washington Job Protection Agreement, notwithstanding anything to the contrary contained in said provisions, except that the employee shall be granted 5 working days instead of 'two working days' provided in Section 10 (a) of said Agreement; and in addition to such benefits the employee shall receive a transfer allowance of \$400. Under this provision, change of residence shall not be considered 'required' if the reporting point to which the employee is changed is not more than 30 miles from his former reporting point.

NOTE: The above paragraph applies not only to the employee who is initially displaced under the circumstances described but also to any other employee who is subsequently displaced under the circumstances described and is required to move his residence."

Carrier denied the Claim for reimbursement on grounds that Claimant's change of residence from Lapeer to Lansing was "caused by" the Organization's insistence upon Rule 65 rebulletining and Claimant's "normal exercise of seniority rights," rather than caused by the operational change in territorial limits. The Claim deadlocked on the property and was eventually appealed to this Division for determination.

There is no question that the reorganization of territories by Carrier on February 5, 1982 was an "operational change" within the established meaning of that term in the industry. SBA 605, Award 235. Nor can there be any doubt in objective minds that the operational change was the proximate cause of the invocation of Rule 65 rebulletining which led directly to and, in a practical sense, "required" Claimant's change of residence from Lapeer to Lansing. In our judgment it would be contrary to the letter and intent of the Agreement language to allow Carrier to bootstrap its position in this Claim on the sophistic theory that Rule 65 rebulletining was a separate and independent cause of Claimant's change of residence. See SBA 605, Award 165.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: 
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 25th day of May 1990.