

The Third Division consisted of the regular members and in addition Referee Hugh G. Duffy when award was rendered.

(C. E. Bradley
PARTIES TO DISPUTE: (
(Norfolk Southern Railway Company

STATEMENT OF CLAIM:

"Carrier violated the Signalmen's Agreement, particularly Rule 7(j), when they changed my headquarters at Black Mountain, N.C., and then on bulletin SS-90-1 assigned junior Signal Maintainer S. R. Davis, who is headquartered at Asheville, N.C., the majority of my former assignment which went past my former headquarters point at Black Mountain, N.C.

Carrier now be required to grant me my rights under Rule 7(j) and permit me to take charge of the territory which included my former headquarters at Black Mountain, N.C."

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 were given due notice of hearing thereon.

Claimant is employed as a Signal Maintainer with territories in and around Asheville, North Carolina. Beginning in 1989, the Carrier made two changes in Claimant's territory:

(1) Effective September 11, 1989, his territory was changed to extend from MP S-73.4 to MP S-126.4, and his headquarters changed from Black Mountain, North Carolina, MP S-125.1 to Old Fort, North Carolina, MP S-109.7.

At the same time, the Carrier changed Signal Maintainer S. R. Davis' territory to extend from MP S-126.4 to MP S-139.0, with headquarters at Asheville, North Carolina.

(2) Effective January 15, 1990, Claimant's territory was changed to extend from MP S-73.4 to MP S-111.3, with his headquarters remaining in Old Fort, North Carolina.

The junior Signal Maintainers' territory was also changed to extend from MP S-111.3 to MP S-138.9, with his headquarters remaining in Ashville, North Carolina. Said new territory included Claimant's former headquarters at Black Mountain, North Carolina.

The Organization filed a claim alleging that the provisions of Rule 7(j) of the Agreement allow Claimant to exercise his seniority for the territory now held by the junior Signal Maintainer, and sought one hour at the overtime rate of pay for each day involved, plus 25 1/2 cents per mile for 32 miles travel each day, and for change of residence benefits under Article VIII of the National Agreement.

On February 18, 1991, Claimant was advised by his General Chairman that the Organization had declined further handling of the claim. Claimant then progressed this matter to the Board on his own behalf, but now seeks only the remedy of requiring the Carrier to permit him to take charge of the territory now held by the junior Signal Maintainer, which includes his former headquarters.

Rule 7(j) reads in pertinent part as follows:

"7.(j) When regularly assigned maintenance territories are re-arranged necessitating abolishment or moving headquarters, the employee whose headquarters are abolished or moved shall have the right (qualifications being sufficient) to take charge of the territory which includes his former headquarters, provided his seniority is greater than that of the employee whose territory is extended to cover his former headquarters;

When a change other than that provided for in the first paragraph of this Rule 7(j) is made in the regularly assigned location of a maintenance employee's headquarters, or when the territorial limits are materially changed (either lengthened or shortened), employees regularly assigned to such positions so changed shall have the option, within twenty (20) days from date of change, of remaining thereon, if qualified, or exercise a displacement right in accordance with the provisions of this Rule 7, paragraphs (a), (b), (c), (d) and (e), ..."

The Claimant contends that if the Carrier had made changes to his territory all at once, instead of in increments over a four month period, he would have had the right under Rule 7(j) to take charge of the territory which now includes his former headquarters. Claimant asserts that this was a deliberate, calculated plan by the Carrier to deny him his displacement rights.

After reviewing the record, the Board finds that there is no evidence that Carrier's actions in rearranging the territories were anything other than legitimate exercises of its right to make operational changes as necessary to meet its service needs.

Even assuming that Claimant could have exercised his seniority rights on the date of either change, Rule 7(j) requires that he exercise such rights within 20 days of the date of the change, and the record shows that he did not attempt to do so.

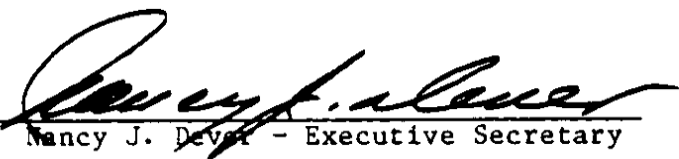
We therefore find that Claimant has not sustained his burden of proof that Carrier has violated Rule 7(j), and the claim must accordingly be denied.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 24th day of July 1992.