

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 42237
Docket No. SG-42451
16-3-NRAB-00003-140058**

The Third Division consisted of the regular members and in addition Referee Sidney Moreland when award was rendered.

PARTIES TO DISPUTE: (
(Brotherhood of Railroad Signalmen
(Union Pacific Railroad Company

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Union Pacific Railroad:

Claim on behalf of Union Pacific General Committee, for the claim dated July 19, 2012, requesting that Carrier correctly bulletin Electronic Technician/Inspector positions Z4S51780 and Z4S51782 in accordance with the Agreement to be allowed as presented, account Carrier violated the current Signalmen’s Agreement, particularly Rule 56, when it failed to notify BRS Vice General Chairman Sanders in writing, within sixty (60) days, its reasons for denying said claim. Carrier’s File No. 1580251. General Chairman’s File No. S-38-1224. BRS File Case No. 14953-UP.”

FINDINGS:

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

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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.

The Carrier advertised, or “posted” two positions for Electronic Technician/Inspector (ETI) in signal construction, which the Organization complained were in violation of the Agreement, namely that any ETI positions are maintenance positions only.

On July 19, 2012, the Organization wrote a letter to the Carrier protesting the posting of the ETI positions in signal construction and requested the Carrier “correct this issue at your earliest convenience.”

On February 15, 2013, the Organization wrote a second letter to the Carrier referring to the previous letter as “. . . the grievance filed on July 19, 2012” and further asserting that pursuant to Rule 56, because the Carrier never responded, the two ETI positions should now be abolished. Rule 56 states, in pertinent part:

“Rule 56 - CLAIMS AND GRIEVANCES

A. All claims or grievances must be presented in writing by or on behalf of the employee involved, to the officer of the Carrier authorized to receive same, within 60 days from the date of the occurrence on which the claim or grievance is based. Should any such claim be disallowed, the Carrier will, within 60 days from the date same is filed, notify whoever filed the claim or grievance (the employee or his representative) in writing of the reasons for such disallowance. If not so notified, the claim or grievance will be allowed as presented, but this will not be considered as a precedent or waiver of the contentions of the Carrier as to other similar claims or grievances.”

The Carrier asserts that the Organization’s letter was no more than a roster protest, which the Carrier was not obligated to respond to. The Carrier also notes that the Organization’s letter was sent to an Analyst who has no involvement with Rule 56 grievances and who possesses no Section 3 Agreement authority. The Carrier also states that because there is no provision of the Agreement restricting its creation and placement of ETI positions, it was not amenable to abolishing the two positions.

The Board finds that the Organization’s initial protest letter did not rise to the level of a filed claim or grievance as described in Rule 56. The Organization also failed to demonstrate that the Parties’ Agreement prohibits the Carrier from

creating ETI positions in construction. Accordingly, the instant claim must be denied.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an Award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 29th day of January 2016.