

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 43052
Docket No. SG-43502
18-3-NRAB-00003-160167**

The Third Division consisted of the regular members and in addition Referee George Edward Larney when award was rendered.

**(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(Canadian Pacific (formerly Soo Line)**

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Canadian Pacific (formerly Soo Line):

Claim on behalf of J.E. Chandler, M.R. Fischer, and E.J. Rejman, for each to have the position he held on October 16, 2014, reestablished and his assignment thereto with compensation for any lost work opportunities or difference in rate of pay they have suffered subsequent to said date, account Carrier, violated the current Signalmen’s Agreement, particularly Rule 23 and the Letter of Understanding dated June 10, 2013, when, on October 16, 2014, it arbitrarily abolished the Claimants established positions and created new ones in their place covering the same class of work. Carrier’s File No. 09-00146. General Chairman’s File No. St. Paul Territory Changes. BRS File Case No. 15308-SOO.”

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.

On October 1, 2014, Carrier issued three (3) Abolishment Notices, one to each Claimant informing them that their current positions would be abolished at the end of their shifts on October 16, 2014. At the same time, in conjunction with said abolishment notices, Carrier bulletined three (3) new positions with altered district limits, which effectively combined the Mainline Hoffman Territory with that of the St. Paul Hump Territory.

The instant claim was filed by the Organization in response to the afore-cited changes implemented by the Carrier. The Organization contends said changes effected by the Carrier effectively violated Rule 23(b) of the January 1, 1986, Controlling Agreement as amended as well as the terms set forth in the June 10, 2013 Letter of Understanding (LOU). Rule 23(b) and the LOU read in full as follows:

RULE 23 – PRESERVATION OF RATES

“(b) Established positions shall not be discontinued and new ones created covering relatively the same class of work for the purpose of reducing the rate of pay or evading the application of the rules in this agreement.”

JUNE 10, 2013, LETTER OF UNDERSTANDING

Re: St. Paul Territories

This letter confirms our discussion of May 28, 2013 via telephone conference among Bob Otis, Randall Ohm, John Cartridge, Joe Mattingly and you.

The parties understand and agree that, consistent with existing and past practice, the St. Paul Hump Signal Maintainers and Electronic Technicians are required to provide service on territory normally covered by the Hoffman Signal Maintainer when such person is not on duty, otherwise unavailable and/or requires assistance. This territory encompasses the River Sub from MP 402.5 to 407.4 including Newport, Red Rock and Dunn, and the Merriam Park Sub from MP 407.4 to MP

410.5 including Hoffman Ave and Robert Street. The Hoffman Signal Maintainer still has primary responsibility for FRA testing and trouble calls when available. This letter does not alter the headquarters or territorial limits that may have been listed on any past bulletins for the St. Paul Hump Signal Maintainers and Electronic Technicians.

The Organization submits the changes Carrier effected of abolishing the three (3) positions held by the Claimants and establishing three (3) new positions in their place was not premised on operational needs as contended by Carrier but rather was a ruse to lower the pay of Claimant Chandler through eliminating his position as Lead Signal Maintainer and reestablishing the position as Signal Maintainer. The Organization asserts this latter point is supported by Carrier's failure to provide any evidence of its contention that the aforementioned changes were motivated and instituted due to changing operational needs. The Organization argues that simply stating an operational need is not the same as providing documentation proving an operational need, and it should not be assumed as fact. The Organization contends that Carrier's explanation it did not intend for Claimant Chandler to receive lesser pay and that the lower pay rate was due to the fact that his position of Lead Signal Maintainer was abolished because it was no longer needed and replaced by the position of Signal Maintainer, a position of fewer responsibilities thus less pay for the position, is not only disingenuous but disputed by Claimant Chandler who maintains his workload and responsibilities have not changed. The Organization submits the foregoing argument asserted clearly demonstrates that the outcome of Claimant Chandler's reduction in pay rate due to the changes it effected to achieve the operational needs it has alleged is in violation of the terms enshrined in Rule 23(b) of the controlling 1986 Agreement.

The Organization also rejects Carrier's explanation that the purpose of the subject change in operation was solely to attain improved response and maintenance in the affected area so as to limit negative operating exposure for the railways involved. The Organization characterizes this explanation as clearly nothing more than surmise lacking evidentiary support. Furthermore, the Organization rejects Carrier's assertion it has the right to unilaterally change the Agreement for the purpose of improved response and maintenance as such assertion is simply not the case according to the Parties' mutual agreement of the terms contained in the June 10, 2013 LOU. Carrier's contention it needed to change the established positions for

coverage is not supported at all by the LOU as said letter allows St. Paul Hump Signal Maintainers and Electronic Technicians to assist or cover the work in question completely. The Organization submits the dispute pertaining to Carrier's proffered reason for effecting the subject change specifically, improved response and maintenance, was settled by the Parties when it attained mutual agreement to the terms contained in the LOU.

Based on the foregoing argument asserted, the Organization urges that Carrier should now be required to remedy the instant claim as presented.

Carrier argues the three (3) changes it effected involved the one change of eliminating the position of Lead Signal Maintainer and replacing it with the position of a Signal Maintainer and that this change was definitely not predicated on cost saving of 26 cents per hour but rather was done to limit the un-needed specialization of the Lead position and to provide greater coverage for All the Maintainers on the territory. The other two (2) changes that were effected were changes to territory coverage and Carrier asserts contrary to that posited by the Organization, the terms of the LOU do not, in any way, restrict it from amending territory limits as the needs of the service change.

The Board has undertaken a thorough review of the written record evidence and respective argument asserted by the Parties and finds that contrary to the Organization's position, we cannot find that the changes effected by Carrier neither ran afoul of the terms set forth in Rule 23(b) nor the terms set forth in the 2013 LOU. Accordingly, the Board rules to deny the subject claim in its entirety.

AWARD

Claim denied.

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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 2nd day of May 2018.