

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 44932
Docket No. SG-47201
23-3-NRAB-00003-220184**

The Third Division consisted of the regular members and in addition Referee Kathryn A. VanDagens when award was rendered.

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

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 A.A. McFarlane, for compensation of \$800, 5 working days paid at his respective straight-time rate of pay, and 107 miles reimbursed at the IRS mileage rate of \$0.575 per mile; account Carrier violated the current Signalmen’s Agreement, particularly Appendix E and Article XII(a) of the Washington Job Protection Agreement, when on August 20, 2020, the Claimant was forced to relocate his residence due to a technological change provided in Appendix E, resulting in lost expenses for relocating his residence from Wallula, Washington to Wasco, Washington. Carrier’s File No. 1742321, General Chairman’s File No. W-E-0105, BRS File Case No. 4696, NMB Code No. 105.”

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.

When this dispute arose, the Claimant was assigned as a Signal Maintainer on Gang 7014 at Wallula, Washington. On August 4 and 9, 2020, the Carrier abolished 38 positions from the Zone 2 workforce and displaced the Claimant. On August 17, 2020, the Claimant then displaced to Gang 7033 for one day before being displaced again and left with one remaining option, a position 131 miles away from his former reporting point. The Organization averred that the Claimant changed his residence 107 miles to Wasco, Washington. The Claimant sought compensation for allowance, mileage, and five (5) days' pay at the signal maintainer rate Appendix E due to relocation. The Carrier denied the claim.

In a letter dated September 10, 2020, the Organization filed a claim on behalf of the Claimant. The Carrier denied the claim in a letter dated November 2, 2020. Following discussion of this dispute in conference, the positions of the parties remained unchanged, and this dispute is now properly before the Board for adjudication.

The Organization contends that the Carrier violated the Agreement, particularly Appendix E, when it made an operational/organizational change, forcing the Claimant to exercise his seniority to Wasco, Washington, forcing him to relocate from his residence in Wallula, Washington. The Organization contends that the Carrier was required to compensate the Claimant for the moving expenses, for the transfer allowance the five days of wages at the Signal Maintainer rate of pay as outlined in Appendix E, Article XII - Changes of Residence Due to Technological, Operational or Organizational Changes. It provides,

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 \$800. 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.

The Organization contends that the Carrier had a massive operational change on August 12, 2020, which caused the Claimant to be displaced from his position on Gang 7014. The Organization contends that there was only one position the Claimant could exercise his seniority to, requiring him to relocate his residence to Wasco, Washington.

The Organization contends that the Carrier violated Appendix E when it created an organizational/operational change to Zone 2 by abolishing 38 positions, causing displacements of up to 100 employees. Those employees who must relocate, like the Claimant, are entitled to benefits under Appendix E.

With respect to the Carrier's assertion that the Claimant has not changed his residence, the Organization contends that the Carrier has not refuted the Claimant's assertion that he was forced to displace into a position 131 miles away.

The Organization contends the Claimant's displacement was the result of an organizational/operational change, as addressed in Third Division Award 22175. The Organization contends that the Carrier violated the Agreement by withholding benefits due to the Claimant under Appendix E. The Claimant is at least entitled to compensation for the necessary expenses he incurred. The Organization contends that the Carrier never established that the Claimant was not entitled to the benefits.

The Carrier contends that the Organization has failed to prove that there was a technological, organizational, or operational change which caused the Claimant to transfer to a new point of employment. In addition, The Carrier contends that the Organization has failed to prove that the Claimant was entitled to compensation under Article XII. The Carrier contends that the Organization has failed to present any evidence that the Claimant was compelled to move his residence due to a technological, operational, or organizational change. The Carrier contends that the Organization put forth no evidence to show he moved, or was required to move, his residence. Finally, the Carrier contends that the Claimant seeking reimbursement for mileage payment is clear proof that he didn't move his residence.

As the party making the claim, the Organization bears the burden of proof. And in this regard, the claim must fail. An employee is entitled to compensation under Appendix E only when the employee meets the negotiated criteria. The parties have agreed that when an employee is required to transfer to a new point of employment

requiring him to move his residence due to a technological, operational, or organizational change made by the Carrier, the employee will be entitled to compensation.

When the language of the parties' agreement is clear and unambiguous, this Board need look no further than the negotiated language agreed to by the parties to resolve their dispute. Here, the Organization has presented no evidence that the Claimant moved his residence, one of the elements necessary to receive compensation. Accordingly, the Organization cannot show that the Claimant satisfied the condition precedent to entitlement to compensation. The Claimant is not entitled to compensation under Article XII.

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 21st day of April 2023.