

PROCEEDINGS BEFORE PUBLIC LAW BOARD NO. 3781

AWARD NO. 16

Case No. 28

Referee Fred Blackwell

Carrier Member: R. O'Neill

Labor Member: W. E. LaRue

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

vs.

CONSOLIDATED RAIL CORPORATION

STATEMENT OF CLAIM:

Claim of the Brotherhood (CR-999) that:

(a) The Carrier has violated the current agreement of February 1, 1982, as amended, particularly Rules 23, 24, 25, and 38, covering weekend travel, meals and lodging when improperly advertising the position of southern tier division gangs.

(b) Claimant H. G. Barnes, et al, shall now be properly compensated for submitted expenses and travel allowances during the period they were assigned their awarded positions.

FINDINGS:

Upon the whole record and all the evidence, after hearing, the Board finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended, and that this Board is duly constituted by agreement and has jurisdiction of the parties and of the subject matter.

OPINION

This case involves claims of six (6) Employees for expenses in April and May 1984, on the basis of the Claimants' contention that as successful bidders on positions advertised at Binghamton, New York, on March 29 and April 23, 1984, by adver-

tisement numbers 84-35 and 84-87, they were entitled to receive the travel and meal allowances provided by the Schedule Agreement, or the allowances mentioned in an April 17, 1984 letter of the Division Engineer. The requested allowances have been denied by the Carrier.

The Organization submits that the expense claims are valid because the Claimants' positions were posted in a bulletin which advertised traveling gang positions without camp cars, distributed along the entire Souther Tier District; and that such bulletin also reflected that the gangs would not be permanent gangs due to the wording of the bulletin which described an "initial" headquarters location which is common language for other than permanent headquarter positions. The Organization further submits that, alternatively, the Carrier should be required to pay expenses to the Claimants as set forth in the Division Engineer's letter of April 17, 1984.

The Carrier submits that the Claimants' positions were not posted as traveling gang positions, but rather, as permanent positions; and that there is no basis for the expense claims either under the Schedule Rules or under the Division Engineer's April 17, 1984 letter.

After due study of the foregoing and study of the whole record, the Board concludes that the Organization's factual perception of the positions advertised at Binghamton, New York is not established by the record. More specifically, advertisement num-

ber 84-35, dated March 29, 1984, which advertises four (4) positions, does not contain the word "initial". There is thus no question that these positions are permanent positions with a fixed headquarters point. Bulletin number 84-47, dated April 23, 1984, advertises three (3) positions, with three different headquarters points, Hornell, Callicoon, and Binghamton, New York. The first position carries the legend "Initial Headquarters Camp Cars, Hornell, New York (traveling expenses as per B.M.W.E. Agreement)"; this position is obviously a "traveling" position but is not involved in the subject complaint. Even though the other two positions advertised at Callicoon and Binghamton carry the same legend, which does not contain the phrase "Initial Headquarters", only the position at Binghamton is a subject of the herein complaint.

In sum, all of the positions involved in the complaint were advertised as permanent headquarters and there is therefore no basis under the cited rules on which the claims could be approved. In like vein, the record provides no basis on which the Carrier could be required to pay travel and meal allowances under the Division Engineer's letter of April 17, 1984.

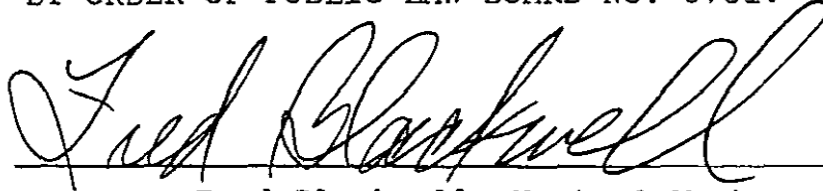
In view of the foregoing, and for the reasons indicated, the claims will be denied.

AWARD:

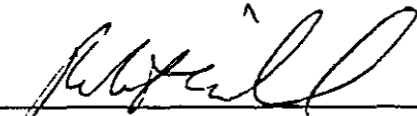
Claims denied as per the Opinion.

P.L. Board No. 3781 - Award No. 16, Case No. 28

BY ORDER OF PUBLIC LAW BOARD NO. 3781.



Fred Blackwell, Neutral Member



R. O'Neill, Carrier Member



W. E. LaRue, Labor Member

Executed on 5-28, 1986.

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