

SPECIAL BOARD OF ADJUSTMENT NO. 605

PARTIES) Brotherhood of Railroad Signalmen
TO) and
DISPUTE) Southern Pacific Company (Pacific Lines)

QUESTION
AT ISSUE: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Southern Pacific Company (Pacific Lines) that:

- (a) The Southern Pacific Company violated Mediation Agreement A-7128, dated February 7, 1965, by transferring Messrs. Hardy, Betteridge, and Smith across seniority lines without benefit of an implementing agreement, as specifically required by Article III of the agreement and the agreed upon interpretations of the Agreement, dated November 24, 1965.
- (b) Messrs. Hardy, Betteridge, and Smith be returned to their home division seniority district and not moved across seniority lines, until such time as proper notices are given the organization, and implementing agreements are consummated to provide for this organizational change.
- (c) Messrs. Hardy, Betteridge and Smith be allowed all moving and personal expenses for moving from the Shasta Division seniority district to the Sacramento Division seniority district, and all other benefits of Article V of Mediation Agreement A-7128.
- (d) Messrs. Hardy, Betteridge, and Smith be allowed all personal and moving expenses for returning to their home seniority district, as well as all other benefits of Article V of the Mediation Agreement A-7128.

OPINION
OF BOARD: Resolution of this dispute turns on the question of whether an implementing agreement is required when making temporary transfers of employees to perform work on other seniority districts.

The Organization takes the position that under the terms of Section 1, Article III of the February 7 Agreement and the November 25 Interpretations, an implementing Agreement is necessary when there is any transfer, temporary or permanent, of employees to perform work outside their home seniority districts.

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Section 1, Article III reads as follows:

"The organizations recognize the right of the carriers to make technological, operational and organizational changes, and in consideration of the protective benefits provided by this Agreement the carrier shall have the right to transfer work and/or transfer employees throughout the system which do not require the crossing of craft lines. The organizations signatory hereto shall enter into such implementing agreements with the carrier as may be necessary to provide for the transfer and use of employees and the allocation or rearrangement of forces made necessary by the contemplated change. One of the purposes of such implementing agreements shall be to provide a force adequate to meet the carrier's requirements."

The Interpretation to this section states:

"1. Implementing agreements will be required in the following situations:

(a) Whenever the proposed change involves the transfer of employees from one seniority district or roster to another, as such seniority districts or rosters existed on February 7, 1965."

Carrier takes the position that the February 7 Agreement contemplated the necessity of an implementing agreement only where a permanent transfer from one seniority district to another was involved. It further contends that claimants herein were temporarily transferred to perform work on another seniority district provided for in a Memorandum Agreement dated July 28, 1950, and supplemented by another agreement dated October 11, 1961.

The rationale of Carrier's position is that since a permanent transfer necessarily involves a transfer of seniority rights, an implementing agreement is needed to resolve the problems of seniority merger; and since the working agreement between the parties makes full provision for employees temporarily transferred to retain their seniority on their home division as well as provision for travel, housing, etc., an implementing agreement is not necessary.

Even though the word "permanent" does not appear in Section 1, Article III of the February 7 Agreement or in the November 25 Interpretations, Carrier contends that this is what was intended because Section 3 of Article II allows for temporary assignments without the necessity of an implementing agreement.

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Section 3, Article II reads as follows:

"When a protected employee is entitled to compensation under this Agreement, he may be used in accordance with existing seniority rules for vacation relief, holiday vacancies, or sick relief, or for any other temporary assignments which do not require the crossing of craft lines. Traveling expenses will be paid in instances where they are allowed under existing rules. Where existing agreements do not provide for traveling expenses, in those instances, the representatives of the organization and the carrier will negotiate in an endeavor to reach an agreement for this purpose."

The Organization takes the position that Section 3, Article II is limited to temporary transfers in the same seniority district.

The Board cannot accept the Organization's position that "after the inception of the February 7, 1965, Agreement, Carrier was not permitted to move work or positions across seniority boundaries without an implementing agreement."

First, the November 25 Interpretations contemplate changes under Section 1, Article III without an implementing agreement. The first sentence of page 11 of the Interpretations begins: "In all instances in which the carrier makes a change such as described in Article III, Section 1, of the February 7, 1965, Agreement which does not require an implementing agreement under Item 1 hereof, ***." (Underscoring added.)

Second, the Board agrees with the Carrier that if temporary work required an implementing agreement, Section 3 of Article II would be surplusage, because everything could be handled under the provisions of Section 1 of Article III.

The Board's view that the February 7 Agreement requires an implementing agreement only when a permanent transfer is contemplated, is supported by Awards 32 and 66 of Special Board of Adjustment No. 605.

AWARD

The answer to the Issue to be Resolved is in the negative.


Nicholas H. Zumas
Neutral Member

Dated: Washington, D. C.
May 26, 1969

*Dissent follows
Award 77*