

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN OF AMERICA

DENVER UNION TERMINAL RAILWAY COMPANY

STATEMENT OF CLAIM: "(a) That Signal Supervisor J. N. McKnight did not establish a seniority date in the Signal Maintainers, Elevator Maintainers, Assistant Signal Maintainers or Helpers class on the Denver Union Terminal when he entered employment on that property January 21, 1918.

"(b) That J. N. McKnight has not subsequent to January 21, 1918, established a Signal Maintainers, Elevator Maintainers, Assistant Signal Maintainers or Helpers seniority date on the Denver Union Terminal.

"(c) That W. E. Wegner be paid at the Signal Maintainer's rate for all time lost while so displaced by J. N. McKnight, February 22, 1932, to August 2, 1934."

EMPLOYEES' STATEMENT OF FACTS: Immediately prior to January 21, 1918, Mr. J. N. McKnight was employed as an Assistant Signal Supervisor on the Union Pacific Railroad.

McKnight was hired by the Denver Union Terminal Company as a Signal Supervisor entering upon his duties as such January 21, 1918. He succeeded Mr. A. H. Dahlstrom as Signal Supervisor on the Denver Union Terminal. Dahlstrom was Signal Supervisor of the Denver Union Terminal and the Colorado Division of the Union Pacific Railroad.

That McKnight did not subsequent to January 21, 1918, and prior to February 16, 1922 (the effective date of the Terminal Agreement) hold a position of Signal Maintainer, Elevator Maintainer, Assistant Signal Maintainer, or Helper on the Denver Union Terminal.

McKnight performed the duties of a Signal Supervisor January 21, 1918, to February 22, 1932.

McKnight was actually assigned, although illegally, the duties of a Signal Maintainer practically the entire time (in fact he was the only Signalman on duty during the first shift) from February 22, 1932, to August 2, 1934, with the exception of short intervals during flood periods between the dates of August 3, 1933, and December 14, 1933.

That W. E. Wegner, a signal maintainer, on the Denver Union Terminal, with a signal maintainer's seniority date of May 3, 1923, was illegally displaced by J. N. McKnight between the dates of February 22, 1932, and August 2, 1934 (less short periods between August 3, 1933, and December 14, 1933).

CARRIERS' STATEMENT OF FACTS: The carrier gives the history of the organization and operation of its Signal Department, and the employ-

(3) Signal Supervisor McKnight did not assert his seniority as Maintainer or perform the ordinary and regular duties of signal maintainer from February 22, 1932, to August 2, 1934, or at any time thereafter.

(4) Signal Supervisor McKnight did not in any manner whatsoever displace Maintainer Wegner during the period February 22, 1932, to August 2, 1934.

OPINION OF BOARD: Upon the record of this case, J. N. McKnight is found to have entered the service of the Denver Union Terminal Company in the position of Signal Supervisor, and to have continued subsequently in that capacity, under which circumstances he did not establish a seniority date as a signal maintainer with rights as such under the agreement in effect between the parties. Claims (a) and (b) should therefore be sustained. The record also shows that the claim for compensation to W. E. Wegner for time lost in the period February 22, 1932, to August 2, 1934, had not been presented to the carrier until the conditions of which complaint is made had disappeared,—the claim thus constituting one not cognizable by this Division.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon and upon the whole record and all the evidence, finds and holds:

That the Carrier and the Employes involved in this dispute are respectively Carrier and Employes within the meaning of the Railway Labor Act, as approved June 21, 1934.

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That J. N. McKnight entered the service of the carrier in the position of Signal Supervisor and continued thereafter in that capacity, under which circumstances, he did not establish a seniority date as a signal maintainer with rights as such under the agreement in effect between the parties, and that claim for compensation to W. E. Wegner for time lost in the period February 22, 1932, to August 2, 1934, had not been presented to the Carrier until the conditions of which complaint is made had disappeared, thus causing it to be one not cognizable by this Division.

AWARD

Claims disposed of in accordance with Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 8th day of July, 1938.