

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Edward M. Sharpe, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN OF AMERICA

TERMINAL RAILROAD ASSOCIATION OF ST. LOUIS

STATEMENT OF CLAIM: Claim of R. Benson and fifteen other employees for the difference in the amount of compensation received while being paid at the assistant signalman's rate and the amount they should have received at the signalman's rate (85 cents per hour with necessary overtime) while engaged in the operation of power switches during the reconstruction of interlocking facilities incident to the destruction of Tower No. 1 at St. Louis, Mo.

JOINT STATEMENT OF FACTS: On July 22, 1940 fire destroyed the Tower No. 1 interlocking plant located at the intersection of the principal lead tracks entering the St. Louis Union Station.

Prior to the fire all the switches in the plant were controlled by means of an electro-pneumatic machine, the power being compressed air and the movement actuated by electrical current. The fire destroyed the transmission of the electric energy necessary to manipulate the air valves and that work was handled by individual or manual control of the valves or knife switches at the several locations in the plant.

A force of signal department employees was assembled to operate and manually control various valves and electric switching devices. This force consisted of signalmen, assistant signalmen and helpers.

Because of this emergency and in order to expedite the repair work a memorandum of agreement was negotiated between the Terminal Railroad Association of St. Louis and the Brotherhood of Railroad Signalmen of America reading as follows:

"MEMORANDUM OF AGREEMENT

By reason of the emergency created by the destruction of Tower No. 1, it becomes necessary to add to and rearrange signal forces incident to hand operation of the plant. Because of this emergency, it is agreed as follows:

1—That added signalmen can be employed and assigned to various duties without the necessity of bulletining jobs.

2—That any force added will be considered as temporary and none of the men employed will accumulate any seniority with this company.

3—That apprentices who have completed enough of their training to qualify as signalmen in the opinion of the Signal Engineer shall be assigned as signalmen ahead of the new men employed.

5—There are no restrictions on the various parts of signalmen's work that may exacted of assistants or apprentices during their four-year training course.

6—All assistants perform a portion of signalmen's work throughout their entire apprenticeship, such portions being stepped up according to the rank of service and acquired skill of the apprentice.

7—Signal helpers were paid the starting assistant rates because of a specific ruling in the schedule, Section 6 of Article 1, to the effect that they will not be permitted to do work recognized as that of higher classes.

8—All available signalmen were used (see joint statement of facts) and their ranks augmented by the assignment of assistants under their jurisdiction. Even with the use of all the force available we had to work all the men 12 hours with the payment of punitive overtime after 8 hours.

9—An emergency operation covered by special agreement with the organization cannot be used as the means of exacting a higher rate of pay than that ordinarily allowed.

OPINION OF BOARD: The record in this case shows that on the afternoon of July 22, 1940, a fire of undetermined origin destroyed the tower, interlocking machine and other apparatus of a large electro-pneumatic interlocking plant at the Union Station, St. Louis, Mo. It is said that the interlocking and signaling territory controlled and operated from this interlocking plant is the largest in the country, involving 96 single switches, 60 double-slip switches, 5 movable-point frogs and 296 signals. Approximately 2500 routes can be set up in this plant and an average of 1700 line-ups are made every 24 hours.

Prior to the fire, the following Signal Department forces were assigned in Tower 1 territory:

Leading Signalmen and Signal Maintainers	2
Signalmen and Signal Maintainers	8
Assistant Signalmen and Assistant Signal Maintainers	2
Helper	3
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Total—	15

The positions thus listed were three eight-hour tricks, seven days per week.

In the "Joint Statement of Facts" by the parties, the Board is informed:

"Prior to the fire all the switches in the plant were controlled by means of an electro-pneumatic machine, the power being compressed air and the movement actuated by electrical current. The fire destroyed the transmission of the electric energy necessary to manipulate the air valves and that work was handled by individual or manual control of the valves or knife switches at the several locations in the plant."

The record likewise discloses that the "force assigned after the fire totaled 38 men separated as follows:

Lead Signalmen and Signal Maintainers	2
Signalmen and Signal Maintainers	23
Asst. Signalmen and Signal Maintainers	13
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Total—	38

The above mentioned 38 employees were on a twelve-hour basis because of the shortage of qualified men. These Signal Department forces were drawn from the entire property, preference being given to men who were working

in the Union Station territory at the time or who had had previous experience in that district. During the emergency it was recognized that the operation of the switches would be confined to experienced and qualified men in the employ of the St. Louis Terminal.

The Employees contend that the Claimants in this case were assigned by the Carrier to operate manually the switches and for which proper operation they were held responsible in the same degree as the signal mechanics who received the rate of pay applicable to the classification of signalmen and signal maintainer, although the Claimants were only paid the rate applicable to Assistant Signalman and assistant signal maintainers; also, that the Carrier by this action violated the provisions of the Signalmen's Agreement.

The Carrier contends that assistant signal maintainers and helpers, the latter paid the starting rate for assistant signal maintainers when assigned to the work, were stationed with signal maintainers at each of the ground locations indicated. In other words, no assistants or helpers working as assistants were assigned to perform any work by themselves.

The Carrier also contends that in accordance with Section 3 of the memorandum agreement, the Signalmen's Committee submitted the names of three assistants holding seniority as of July 13, 1926, February 13, 1938 and April 25, 1938. These three men were accorded seniority as signal maintainers effective with their assignment to ground service in the Union Station territory and thereafter worked and were paid as such. The names of none of the other assistant signal maintainers or helpers were submitted by the Committee, which is prima facie evidence of the fact that they did not consider them capable of performing signal maintainer's work. As they were not capable of performing such work, except to a limited extent under the jurisdiction of a maintainer, and the Committee admitted that they were not, we cannot understand the basis on which they predicate their request that they be paid the signal maintainer's rate. The fact that they performed one or more of the component parts of signalmen's work does not entitle them to signalmen's rate, because the performance of some such work is contemplated throughout the four year apprenticeship which they must serve in order to acquire properly the title of experienced mechanics. The positions that they held in the tower territory were just as much a part of their training as the positions they held in any other location on the property incident to the performance of the company's work and gaining the qualifications necessary to become mechanics. In other words, they were still undergoing training during the entire period that they worked in the Union Station territory, for they were assigned with experienced signal maintainers the same as they are on every part of the property and in connection with every part of the work. It cannot be said, as contemplated in Section 12 of Article 2, that they were "required to fill the place of another employe receiving a higher rate of pay." That was only true with respect to helpers who were assigned as assistant signal maintainers and they were paid the starting rate of that classification.

The Employees rely upon Award 517 where it was said:

"It is difficult and for that matter impossible to determine the entire detail of the work performed by the several individuals in these gangs, but the fact is evidenced that on the poles the line or wire work of Kohler and Chess at Youngstown and that of Chess and Chess at Ravenna, in their respective classifications of signalmen and helper, was of the same class and that these men worked together, or on consecutive poles, at work of an identical character.

"In view of these conditions and the facts in evidence that the employe classified as a signalman and the employe classified as a helper were performing work of an identical character at a considerable distance apart and independent one of the other, so far as the

preparations for and the handling and stringing of the wire is concerned, it is the opinion of the Board that the employe classified as a helper should be reclassified as a signalman on the dates indicated in accordance with Rule 3 of Article I of the agreement between the parties, effective November 1, 1935."

Factors that entered into the award in that case were: "* * * advantage was taken of the man's knowledge and experience, and, while employed as a helper and at a helper's rate of pay the work he actually performed was that of a signalman * * *" and "* * * there is little doubt but that at least a definite and major proportion of the work on the ground was that of signalman in preparation for the work that was to be done on the poles."

In the instant case we are dealing with an unusual situation. As a result of the fire a different method of accomplishing similar results came into existence. Prior to the fire all the switches in the plant were controlled by means of an electro-pneumatic machine, the power being compressed air and the movement actuated by electrical current. The fire destroyed the transmission of the electric energy necessary to manipulate the air valves and that work was handled by individual or manual control of the valves or knife switches at the several locations in the plant.

The method used after the fire was not the unusual method of accomplishing like results and while it is true that claimants performed work similar to that of signalmen during the emergency yet it cannot be said that the work they performed was the usual and ordinary work that signalmen perform prior to the fire. Moreover these men were assigned work with and under the direction of signalmen.

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 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 the Carrier did not violate the Agreement by its failure to pay the Signalman and Signal Maintainer's rate of pay to the Claimants in this case.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 20th day of February, 1942.