**Award No. 3306**

**Docket No. SG-3312**

# NATIONAL RAILROAD ADJUSTMENT BOARD

## THIRD DIVISION

Robert G. Simmons, Referee

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## PARTIES TO DISPUTE:

## BROTHERHOOD OF RAILROAD SIGNALMEN OF AMERICA

## SOUTHERN PACIFIC COMPANY (PACIFIC LINES)

STATEMENT OF CLAIM: Claim that Signalmen R. D. Berlier, J. Dixon, K. B. Wilkerson, C. P. Darrough, H. F. Wells, C. A. Armstrong and Assistant Signalman L. L. Hase be reimbursed for cost of meals eaten away from home station while performing emergency repair work February 23, 24, 26 and 27, 1945. Amount claimed $28.94.

EMPLOYES' STATEMENT OF FACTS: Messrs. Berlier, Dixon, Wilkerson, Darrough, Wells, Armstrong and Hase are members of Signal Gang 8 of the Coast Division, Southern Pacific Company, with headquarters at the San Jose Signal Shop, San Jose, California. The regular working hours of this gang are eight hours per day, as follows: 8:00 a.m. to 12:00 noon, and 12:30 p.m. to 4:30 p.m. However, at the time claim was made employes were assigned to one hour overtime per day.

This gang reports for duty at the San Jose Signal Shop every morning and returns to it every night after its tour of duty. On the days in question the members of this gang were required on account of emergency conditions over which they had no control to work in excess of ten hours per day, as follows:

| | | | | |
|---|---|---|---|---|
| February | 23 | worked | until | 8:00 p.m. |
| " | 24 | " | " | 7:00 " |
| " | 26 | " | " | 8:00 " |
| " | 27 | " | " | 7:30 " |

The employes in queestion submitted the usual expense forms, as follows:

| Name | 2-23-45 | 2-24-45 | 2-26-45 | 2-27-45 | Total |
|---|---|---|---|---|---|
| R. D. Berlier | | | | | |
| Mountain View | $1.27 | | | | |
| Cupertino | | $1.12 | | | |
| Palo Alto | | | $1.37 | $1.37 | $5.13 |
| C. P. Darrough | | | | | |
| Mountain View | .77 | | | | |
| Cupertino | | 1.12 | | | |
| Palo Alto | | | 1.34 | 1.03 | 4.26 |
| L. L. Hase | | | | | |
| Mountain View | .77 | | | | |
| Cupertino | | 1.13 | | | |
| Palo Alto | | | 1.03 | .87 | 3.80 |

and worked overtime to complete the work in which they were engaged, such in itself constituted an emergency. This position can only be described as contradictory. If the work performed during the regular assigned hours was not emergency work, then it definitely was not emergency work subsequent to the termination of the claimants' regular assigned work period.

If the petitioner's position in this docket is sustained it would mean that at any time an employe in the performance of his regular work is worked on an overtime basis, an emergency exists so as to bring into operation Rule 22 of the current agreement. That such position is diametrically opposed to the specific language of the rule and the intention of the parties is self-evident. The rule speaks for itself; the language is clear and unambiguous. It provides and contemplates that when such an emergency as is specifically described exists, namely, "such as derailments, washouts, snow blockades, fires and slides" and employes are taken from their outfit cars or home stations to the scene of the emergency and used to perform work in connection therewith they will then be furnished meals and lodging, where possible, by the carrier.

To accept the petitioner's position in this docket would definitely be tantamount to writing into Rule 22 of the current agreement language that does not appear therein; in other words, writing an entirely new rule not agreed to by the parties. That this Division has the authority to construe and enforce agreements but not to make new rules or to amend existing rules is an established pricinple.

The carrier asserts that when the claimants were compensated in accordance with the provisions of Rules 5, 10 and 24, as set forth in paragraph 4 of the statement of facts, they were fully and completely compensated in accordance with the current agreement.

CONCLUSION

The carrier submits that it has conclusively established that the claim in this docket is without basis or merit and therefore, respectfully asserts that it is incumbent upon the Division to deny said claim.

**OPINION OF BOARD:** The issue here presented is identical with that presented in SG-3311, Award 3305.

For the reasons there given the claim is denied.

**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 for the reasons stated in the Opinion the claim is denied.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 2nd day of October, 1946.