

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Alex Elson, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN OF AMERICA

SOUTHERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee, Brotherhood of Railroad Signalmen on the Southern Railway System, that Signalman J. F. Bost be paid the difference between the Leading Signalman's rate and Signalman's rate of pay for all hours worked by him between Monday, September 1, 1947, and Tuesday, September 16, 1947.

EMPLOYES' STATEMENT OF FACTS: Signalman J. F. Bost, at the time this claim accrued, was regularly assigned to a signal gang under Foreman W. E. Palmer. The personnel of this gang consisted of the following employees: Messrs. L. B. Way, J. F. Bost, J. E. Hansel, W. M. Sams, Jr., W. N. Linebarger, R. M. Roberts, W. K. Semo, H. K. Thornburg, and M. H. Marshall, making a total of nine employees assigned to Foreman Palmer's gang.

Mr. L. B. Way, Leading Signalman in this gang, was absent from the gang between September 1, 1947, and September 16, 1947, account being used at another point as a Foreman, and Bost, being the senior Signalman remaining in the gang, claims the Leader's rate of pay during Way's absence.

Way did not return to Palmer's gang following his relief assignment as he was displaced by Leading Signalman Riner.

Original claim for this adjustment in Bost's rate of pay was filed with Signal Supervisor C. E. Colvin on November 1, 1947, and has been handled on the property in the usual manner without reaching a satisfactory settlement.

The agreement between the parties has an effective date of December 1, 1941, as to rates and April 1, 1942, as to rules and is by reference made a part of the record in this dispute.

POSITION OF EMPLOYES: It is the position of the Brotherhood that under the proper application of Rule 2 (a) claimant J. F. Bost should be paid the Leading Signalman's rate of pay during the absence of the regularly assigned Leader in Foreman Palmer's gang.

For ready reference, Rule 2 (a) is reproduced herewith:

"Rule 2 (a)

Leading Signalmen: A signalman assigned to work with and supervise the work of a group of employees as a gang shall be

(3) Under the Railway Labor Act the Board is required to decide the dispute in accordance with the Signalmen's Agreement and not otherwise. The Signalmen's Agreement not supporting the claim, it follows that the Board cannot do other than deny it.

The claim being wholly without merit and unsupported by any provision of the Signalmen's Agreement, the Board should in all things deny it and Respondent respectfully requests that the Board so hold.

Apparently the employees do not realize that they as well as their employer are engaged in a highly competitive business. The more expensive they make railroad operations the less work there will be for them and their fellow employees to perform.

OPINION OF BOARD: The claim in this case is that the carrier should have assigned the senior signalman to the position of leading signalman during a temporary absence of the leading signalman.

The claim arises under the following circumstances. The signal gang under Foreman Palmer consisted of one leading signalman, three signalmen, two assistant signalmen, and two signal helpers, or eight men exclusive of the foreman. On or about September 1, 1947, the leading signalman, Way, was assigned to temporarily fill the place of a foreman of another signal gang. Way did not return to Palmer's gang, but following his relief assignment was displaced by Leading Signalman Riner. The organization claims that the senior signalman, Bost, should have been made leading signalman during the period from September 1, 1947 to September 16, 1947, and paid the rate of leading signalman, or five cents an hour more than his rate as signalman.

The applicable rule is Rule 2 (a), which is set forth in the submission. The crucial portion of the rule reads " * * * as a matter of general policy the management will, in forming its organization, create the position of leading signalman in signal gangs, personnel of which consists of eight (8) or more men exclusive of foreman."

During the time that Way was temporarily filling the position of foreman, the gang actually consisted of seven men, exclusive of the foreman.

The theory of the organization seems to be that although the leading Signalman, Way, was temporarily filling the position of foreman, he was still a member of the gang and hence there were eight men in the gang during the period in question, exclusive of the foreman.

Rule 2 (a) is silent on the question of what happens when the leading signalman is temporarily transferred. The language of the rule clearly does not require the carrier to maintain the position of leading signalman unless there are eight employees in the gang other than the foreman. No other rule has been cited by the organization in support of its contention that the carrier was under a duty to temporarily promote Bost to the position of leading signalman.

The organization contends that although Way, the leading signalman, was temporarily transferred, his work remained to be done and that this was evidenced by the displacement which occurred on September 16. We do not know from the record whether Way's work remained to be done during the period from September 1 to September 16. Under the circumstances of this case we do not believe that the rules of the parties required the carrier to temporarily fill the position. See Awards 1216, 1412 and 5242.

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 Employee involved in this dispute are respectively Carrier and Employee 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 agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. I. Tummon
Acting Secretary

Dated at Chicago, Illinois, this 17th day of September, 1951.