

Award Number 5556
Docket Number SG-5498

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Edward F. Carter, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN OF AMERICA
CHICAGO AND NORTH WESTERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the System General Committee of the Brotherhood of Railroad Signalmen of America on the Chicago and North Western Railway Company that:

(a) Claim that the Leading Signal Maintainer assigned to Job No. 55, Telautograph Position at Chicago, Illinois, be paid eight hours at rate and one-half Leading Signal Maintainer's rate for each day another employe was used to perform the work on Saturdays since the effective date of the shorter work-week. (September 1, 1949)

(b) Claim that the Signal Maintainer assigned to Job No. 56, Telautograph Position, Chicago, Illinois, be paid eight hours for Mondays at his own straight time rate, and the difference between his straight time rate and rate and one-half for eight hours on Saturdays, since the effective date of the shorter work-week. (September 1, 1949)

JOINT STATEMENT OF FACTS: Instructions were issued by the Supervisor, Communications and Signals, Central Seniority District, that effective September 1, 1949, that the assigned "Rest Days" of Job No. 55, Leading Signal Maintainer, Telautograph Position, Lake Street, Chicago, Illinois, would be Saturday—Sunday—Holidays, that of Signal Maintainer, Telautograph Position, Lake Street, Chicago, Illinois, Sunday—Monday—Holidays.

The Leading Signal Maintainer and Signal Maintainer are assigned to the same headquarters and territory, and prior to the application of the shorter work-week agreement, were assigned to work six eight-hour days each week, Monday through Saturday, except such weeks in which holidays occurred.

By the arrangement stated in the first paragraph of this statement of facts the Leading Signal Maintainer now works alone on Mondays and the Signal Maintainer works alone on Saturdays.

This dispute was handled on the property in the usual manner without arriving at a satisfactory settlement.

There is an agreement between the parties to this dispute bearing effective date of July 1, 1939. This agreement was supplemented effective September 1, 1949 to provide for the shorter work-week. Both of these agreements are, by reference, made a part of the record in this dispute.

"The observance of New Year's Day, Washington's Birthday, Decoration Day, Fourth of July, Labor Day, Thanksgiving Day, and Christmas, will not be regarded as reducing the established working hours or days."

Prior to the establishment of the 40-hour work week effective September 1, 1949 the employes holding the two Telautograph positions were assigned to a work week of Monday through Saturday. In order to properly and adequately protect the maintenance and operational requirements it is still necessary that the incumbents of the Telautograph positions be assigned so as to provide service on the six days Monday to Saturday, inclusive. It is the position of the Carrier that the Monday through Friday work week for the incumbent of Telautograph position, Job No. 55 and the Tuesday through Saturday work week for the incumbent of Telautograph position, Job No. 56 is not contrary to the provisions of any rules in the applicable signalmen's schedule agreement but is in conformity with the provisions of Rule 5½(c), quoted above, and that therefore this Board cannot consistently do otherwise than deny the claim of the employes.

OPINION OF BOARD: Prior to September 1, 1949, the Carrier maintained two Telautograph positions at Chicago, Illinois. They were assigned to a Leading Signal Maintainer and a Signal Maintainer six days each week with Sunday as rest day. After the establishment of the 40 hour work week, effective September 1, 1949, the Leading Signal Maintainer was assigned Monday through Friday and the Signal Maintainer was assigned Tuesday through Saturday. The Organization contends that this was an improper assignment and claims pay for the employes affected for time lost in not being permitted to work their correct assignments and time and one-half for time actually worked outside their regular assignments if it had been correctly assigned.

The Carrier contends the work performed by the claimants is such that it must be performed six days per week. The occupants of these two positions are responsible for the maintenance of the Telautograph sending and receiving equipment, local telephone circuits extending from the Canal, Mayfair and Kedzie Avenue interlockings and including switchboards handling communications from the station platform and concourse to terminal interlocking, and the CTC terminal control equipment adjacent to the Galena Division train dispatcher's office. The equipment described is necessary to continuous operation of the railroad and a failure of such equipment would seriously interfere with train movements. The record shows further that heavy suburban traffic is handled in the area on Monday through Saturday which is curtailed only on Sundays and holidays. This, of course, increases the need for signal maintenance during the times suburban trains are operating. The fact that these positions were assigned six days each week prior to the effective date of the 40 hour work week agreement is some evidence that six day service is required. We think the evidence shows that the maintenance of this equipment is such that employes will be needed to perform it six days each week as the Carrier contends.

It having been determined that the positions are six day positions, Rule 5½ (c) becomes operative and Carrier may properly fix the rest days in conformity with service needs as Saturday and Sunday or Sunday and Monday in accordance with the provisions of that Rule which are:

"Where the nature of the work is such that employes will be needed six days each week, the rest days will be either Saturday and Sunday or Sunday and Monday."

The positions being six day positions, Rule 5½ (c) is self-operating and may be applied by the Carrier without conference with the Organization. Since Rule 5½ (f) applies only to five day positions, it applies only to positions defined by Rule 5½ (b) and has no application in this dispute.

The Organization urges that if the positions are six day positions, claimants are entitled to work six days each week. This is a misconception of the meaning of "position" as it is redefined in the 40 Hour Work Week Agreement. All regular assignments under that agreement are for five days each week. Six and seven day assignments no longer exist. Whether a position is a five, six or seven day position is not affected by the individual assignment of an employee. If service, duties or operations are required six days each week, the positions are six day positions, even though the occupant is assigned five days only. The necessary work remaining to be performed after the five day assignments are made in accordance with Rules 5½ (b), (c) and (d), is required to be made as provided in Rule 5½ (e) and other pertinent provisions of the agreement.

But the latter has no relation to a regular assignment of an employee to a six day position under the provisions of Rule 5½ (c). This dispute is identical in principle with Award 5555 and the principles therein announced are applicable here. No basis for an affirmative award exists.

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 Employees involved in this dispute are respectively Carrier and Employees 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 12th day of November, 1951.