

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Peter M. Kelliher, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN OF AMERICA

**THE ATCHISON, TOPEKA AND SANTA FE
RAILWAY COMPANY
(Western Lines)**

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen of America on the Atchison, Topeka and Santa Fe Railway that Signal Maintainer T. R. Baker, Lubbock, Texas, Slaton Division, be paid a minimum allowance of four hours at straight-time rate of pay on Wednesday, April 7, 1948.

EMPLOYES' STATEMENT OF FACTS: About 2:00 A.M., Wednesday, April 7, 1948, a train derailment occurred within the limits of the automatic interlocking at Lubbock, Texas, which is a part of the maintenance territory assigned to the claimant, Signal Maintainer T. R. Baker.

The claimant, who was available for calls in conformity with Article II, Section 11 (a), was not called or made aware of the train derailment, when it occurred.

Signal Supervisor C. H. Green performed the necessary inspections and tests to determine the extent of damages to the automatic interlocking instead of having the claimant called to perform this work. Following the clearing of the track, the Signal Supervisor inspected and tested the functions of the automatic interlocking to determine that the plant was functioning normally.

The Scope work performed by the Signal Supervisor in this instance was a part of maintenance work constituting inspection and tests of signal and interlocking appurtenances and appliances, which properly and normally accrues to employees classified in Article I of the Signalmen's Agreement. This Scope work as involved here is generally recognized as Signal Maintainers' work and flows to them by virtue of their ownership of a maintenance position secured through application of seniority rules in the agreement.

The agreement provides that the classifications enumerated in Article I include all the employees of the Signal Department performing the work referred to under the heading of "Scope". There is no classification of Signal Supervisor found in Article I; neither is there any exception to

In conclusion, the Carrier reasserts that the claim of the Employees in the instant dispute is entirely without support under the Agreement rules and should, for the reasons expressed herein, be denied in its entirety.

All that is contained herein is either known or available to the Employees or their representatives.

(Exhibits not reproduced.)

OPINION OF BOARD: The Petitioner asserts that the Signal Supervisor performed the necessary inspections and tests to determine the extent of damages to the automatic interlocking instead of having the Claimant called to perform this work and following the clearing of the track; inspected and tested the functions of the automatic interlocking to determine that the Plant was functioning normally. The Carrier contends that the Employees' description contains allegations which are unsupported and are not true in fact. According to the Carrier the Supervisor made no inspection or test of the type usually made by the Signal Maintainers or other Signal employees. He merely observed the condition of the signal bond wires to determine if they were broken or damaged sufficiently to require repair or replacement by a Signal employee. He also looked at the recorder chart after the derailment had been cleared.

The record shows that there was no signal failure. The Supervisor based upon his observation, determined that no signal work existed that would make it necessary to call the Claimant. Even if this "observing" and "looking" by the Supervisor be regarded as "inspection" and "testing" this Board in Award 1498, in a case involving the same Organization said: "We concede, as claimed by the Carrier, that all inspection work is not covered by the agreement. Obviously, officials of a Railroad, both high and subordinate * * * do inspection work. This is carried on as an incident in the performance of their duties as officials * * *." The Carrier's claim of a long established practice in the following statement in the record has not been denied: "He was simply fulfilling his duties and obligations as a Supervisor, the same as he and other officers and supervisors have done since time immemorial, and all without prior complaint or claim from either the Employees or their representatives."

The Board must find that the Carrier is not required to call a Signal Maintainer so he can make a determination whether signal work exists for which he should properly be called. This Board in Award 4828 stated: "All supervisory officers are charged with varying amounts of inspection work which is inherent in their positions. But it does not include the inspecting and testing necessary to the proper installation, maintenance and repair of the signal system. * * *"

The Board from the evidence must conclude that the Supervisor in this case made only that inspection which was required and inherent in his position as a Supervisor in order to determine whether it was necessary to call the Claimant to perform signal work. The Petitioner did not sustain its burden of proof to show that the Supervisor did any of the inspecting or testing necessary to the installation, maintenance or repair of the signal system.

In Award 4946 this Board stated: "The yardmaster had the right * * * to examine for the purpose of determining if claimant should be called to make repairs."

The same principle is controlling under the facts in this case.

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 the Carrier has not violated the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois, this 29th day of May, 1953.