Award No. 6241

Docket No. SG-6348

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Mortimer Stone, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN OF AMERICA

SOUTHERN PACIFIC COMPANY (PACIFIC LINES)

STATEMENT OF CLAIM: Claim of the General Committee, Brotherhood of Railroad Signalmen on the Southern Pacific (Pacific Lines).

A—That the Company violated the current Signalmen's Agreement particularly Rule 18 which reads as follows: "Length of Meal Period. Unless acceptable to a majority of the employes directly interested, the meal period shall not be less than thirty (30) minutes nor more than one (1) hour. Duration of the meal period within these limits may be changed by agreement between local officers of the Company and the local committee representing the employes."

B—That all Signal Department employes on the Rio Grande Division whose hours were changed by mailgram dated August 10, 1951 to be effective August 15, 1951 be paid Thirty Minutes at the time and one-half rate for each day worked during the time the hours set forth in this mailgram were effective.

JOINT STATEMENT OF FACTS: Prior to August 15, 1951, the meal period of all employes of the Signal Department on the Rio Grande Division to whom the provisions of Rule 18 are applicable, was thirty minutes, from 12:00 Noon to 12:30 P. M.

Effective August 15, 1951, the meal period of all such employes, excepting those employed at El Paso Signal Shop, was changed to one hour, from 12:00 Noon to 1:00 P. M.

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POSITION OF EMPLOYES: It is the position of the Brotherhood that the Carrier violated the provisions of Rule 18 when it changed the duration of the meal period of the employes involved from thirty minutes to one hour without negotiating an agreement with the local committee representing the affected employes as provided in the last clause in Rule 18. This clause definitely provides that the duration of the meal period within the limits defined in the first sentence of Rule 18, namely—not less than thirty minutes nor more than one hour—may only be changed by agreement between local officers and local committee.

The agreed to facts clearly show that the duration of the meal period was changed from thirty minutes to one hour without negotiation of a local agreement.

OPINION OF BOARD: Carrier unilaterally changed Claimants' meal period from thirty minutes to one hour, as a result of which they were required to work for thirty minutes beyond the established quitting time of their assignments, for which period they here seek to be paid. Applicable Rule 18 provides:

> "Rule 18. LENGTH OF MEAL PERIOD. Unless acceptable to a majority of the employes directly interested, the meal period shall not be less than thirty (30) minutes nor more than one (1) hour. Duration of the meal period within these limits may be changed by agreement between local officers of the Company and the local committee representing the employes."

We think the intent of this rule is that provision of an unusually short or unusually long meal period; that is, one of less than thirty minutes or more than one hour, requires the individual approval of a majority of the employes concerned, but that lesser changes of the meal period may be agreed to by the local committee in behalf of the employes without their individual approval.

The provision in Rule 18, that "Duration of the meal period within these limits may be changed by agreement," is equivalent in the context of the rule to a provision that the meal period may not be changed without such agreement. The phrase "within these limits" is equivalent to the phrase "not beyond these limits." See definition of the preposition "within" in Webster's New International Dictionary, Second Edition: "2. In the limits or compass of; specif.: (a) Not farther in length than; as, within five miles." Therefore, Carrier violated the rule in changing the meal period without agreement. However, we think Claimant should be paid for the extra time only at the pro rata rate. This Division said in Award 5923, where the beginning time was changed contrary to rule: "Since these periods of time were not actually worked claimants are not entitled to reparation at the punitive or over-time rate."

FINDINGS: The Third Division of the Adjustment Board upon the whole record and all the evidence, finds and holds:

That both parties to this dispute waived oral hearing thereon;

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 violated the Agreement.

AWARD

Claim sustained with reparation limited to the pro rata rate.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois, this 12th day of June, 1953.