

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Dwyer W. Shugrue, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN OF AMERICA

SEABOARD AIR LINE RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood of Railroad Signalmen of America on the Seaboard Air Line Railroad Company that:

(a) The Carrier violated Rule 17 of the current agreement when it failed to call Assistant Signal Maintainer J. K. Shearin first to perform signal work on his assigned territory.

(b) Assistant Signal Maintainer J. K. Shearin be compensated at his respective overtime rate covering all time worked by adjoining Signal Maintainer A. C. White on November 9 and 10, 1952.

EMPLOYES' STATEMENT OF FACTS: Assistant Signal Maintainer J. K. Shearin is regularly assigned to position of Assistant Signal Maintainer at Columbia, S. C., assigned with Signal Maintainer J. F. Hause. On November 9, 1952, a case of signal trouble developed on the territory assigned to Signal Maintainer Hause and Assistant Signal Maintainer Shearin. Signal Maintainer Hause was sick and unable to answer the call, but instead of the Carrier calling the claimant first for the signal trouble, as specified in Rule 17 of the current agreement, Signal Maintainer A. C. White was called from an adjoining territory to perform the signal work on the territory assigned to the Claimant. When Signal Maintainer White was called, the Carrier instructed him to call the claimant after he arrived at Columbia, S. C., if he needed help to clear the signal trouble.

This dispute was progressed in the proper and usual manner up to and including the highest officer of the Carrier designated by the Management to whom appeals may be taken, without securing a satisfactory settlement.

There is an agreement between the parties involved in this dispute between the Brotherhood of Railroad Signalmen of America and the Seaboard Air Line Railroad bearing the effective date for rules as November 1, 1951, and rates effective October 1, 1951. We understand there is a copy of this agreement on file with the Board, and request is made that it be made a part of the record in this dispute.

POSITION OF EMPLOYES: It is the position of the Brotherhood that the Carrier violated Rule 17 of the current agreement when it failed to call the claimant first for signal work on his assigned territory.

rule, will be permitted to go on adjoining territory in order to clear the trouble for which they were called."

POSITION OF CARRIER: It is the Carrier's position that Mr. Shearin was not deprived of work in violation of Rule 17. The regularly assigned *Signal Maintainer on the territory was called to correct the signal trouble* and when he could not protect the call account sickness it was permissible, under Rule 17, to call the adjoining Signal Maintainer because Assistant Maintainer Shearin was not qualified to handle this particular case of signal trouble alone. Mr. Shearin was properly called to accompany the adjoining Signal Maintainer to the point of trouble; however, he did not respond to the call and was, therefore, not available to protect the call. I know of no contractual provision that would require the Carrier in this case to have called Mr. Shearin and have him stand by on penalty time awaiting the arrival of the Maintainer from Swansea.

The Brotherhood took the position that Carrier should have called Assistant Maintainer Shearin first before calling adjoining Signal Maintainer and that no doubt if that had been done Mr. Shearin would have received the call but after the Maintainer arrived at Columbia it was near midnight and there was a less possibility that Mr. Shearin would hear his telephone, thereby depriving him of the call—in fact the General Chairman of the Brotherhood stated it would have been a violation of Rule 17 if Carrier had even called Mr. Shearin five minutes after it called the adjoining Signal Maintainer.

Rule 17 means that the proper employe will have first preference for such calls for trouble on his assigned territory. This was complied with when regular Signal Maintainer was called and when he (the regular assignee) could not respond it was permissible to then call another available Signal Maintainer.

Mr. Shearin did not work on the night in question solely by his own actions in not being available when called and there is no merit to the claim.

Carrier affirmatively states that all data contained herein has been made known to Brotherhood representative.

OPINION OF BOARD: The claimant, an assistant signal maintainer, and the signal maintainer with whom he worked were regularly assigned at Columbia, South Carolina, with territory north of that point. On November 9, 1952, signal trouble developed on territory to which claimant was assigned. The signal maintainer assigned to this territory was called but was unable to respond because of illness, whereupon the signal maintainer assigned to the adjoining territory was called at his headquarters 21 miles south of Columbia and instructed to proceed to Columbia. After he arrived at Columbia, he attempted to call claimant for assistance in clearing the signal trouble but received no answer. He then proceeded by himself to check the trouble. It is conceded that claimant was not registered absent at the time in question.

The Employes maintain that pursuant to Rule 17, set forth below, claimant should have been called first before the Carrier called other available employes.

The Carrier maintains that in its judgment the trouble on claimant's territory required the services of a signal maintainer and not being able to use the regularly assigned maintainer, it called the adjoining maintainer in accordance with the provisions of Rule 17. Carrier asserts it was under no obligation to call claimant first and have him stand by on penalty time awaiting the maintainer from the adjoining territory. Carrier relies on Rule 17, particularly the last sentence, and Rules 16 (b) and 6 (a).

"RULE 17. Subject to Call—

Employes will be free to leave their home station after regular tour of duty. However, signal employes assigned to or filling

maintainer positions will notify the signal supervisor and chief dispatcher, on their respective territory, of their residence and telephone number, if they have a telephone, and will respond as promptly as conditions will permit, when called for service outside of regular assigned working hours; signal maintainers and assistant signal maintainers who desire to be off 'subject to call' will notify the dispatcher on their respective Division that they will not be available for calls, and will advise him when they expect to return. Unless registered absent, as above, the regular assignees, or employes filling such positions, who can be called by telephone or reside within calling distance and calling facilities are available, will be called first for trouble on their assigned section or territory. In event the regular assignee, or employe filling the position, is not available, or needs assistance, other available employes covered by this agreement may be used."

"RULE 16. Overtime and Calls—

(b) Employes notified or called to perform service outside of regular working hours will be paid a minimum allowance of two (2) hours and forty (40) minutes at the time and one-half rate. Time in excess of two (2) hours and forty (40) minutes to be paid for at the overtime rate and on the actual minute basis. The time of employes notified will begin at the time required to report and will end when released. Time of employes called will begin at the time called and end when they return to designated point at home station."

"RULE 6. Assistant Signalman-Assistant Signal Maintainer—

(a) An employe in training for a position of signalman or signal maintainer, working with and under the direction of a signalman or signal maintainer, shall be classified as an assistant signalman or assistant signal maintainer. He shall have common headquarters with the signalman or signal maintainer under whom working.

NOTE: Insertion of the word 'with' in this paragraph is not intended to restrict assistants from performing work under the direction of a signalman or signal maintainer. It is not intended that the word 'with' means that assistants must work within any specified zone of distance in performing the work under the direction of a mechanic. Likewise, it is not intended that assistants be sent out alone and on their own responsibility to perform bona fide mechanics' work."

Reading Rules 17 and 6 (a) together, we have no hesitation in finding that under the circumstances present in this record the Carrier had no obligation to call claimant before it called the adjoining signal maintainer. The Note to Rule 6 (a) is clear and the provisions of Rule 17 were adhered to. The regular assignee referred to in Rule 17 who was entitled to be called first was the signal maintainer and he was the one first called by the Carrier. The assistant signal maintainer did not become the assignee of the signal maintainer's position and was not the employe filling that position. The Carrier's obligation to him was fulfilled when he was called to assist the signal maintainer properly called from the adjacent territory.

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

The Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: A. Ivan Tummon
Executive Secretary

Dated at Chicago, Illinois, this 28th day of April, 1958.