

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Harold M. Weston, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN OF AMERICA
BOSTON & ALBANY RAILROAD (N.Y.C.R.R.CO., LESSEE)

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen of America on the Boston and Albany Railroad (New York Central Railroad Company, Lessee) that:

(a) C. J. Seeley be paid the difference between his Helper's rate and the rate of Signal Maintainer for Friday, May 6, 1955, for actual time worked.

(b) Signal Maintainer J. W. Broderick be paid extra time at the time and one-half rate for actual time worked by C. J. Seeley on May 6, 1955.

(c) Signal Maintainer L. H. Shaver be paid extra time at Maintainer's overtime rate for actual time worked by C. J. Seeley on Saturday, May 7, 1955.

EMPLOYEES' STATEMENT OF FACTS: On May 6 and 7, 1955, Signal Helper C. J. Seeley was used by the Carrier to protect various signal apparatus from damage in the operation of Speno ballast cleaning machines at or near Chatham, N. Y.

In the performance of this service, Seeley was required to know the whereabouts of underground signal cables, the position of track circuit bootlegs, the location of cranks, compensators, train control indicators, terminal junction boxes, trunking, and other signal apparatus at or near where the ballast cleaners were to operate.

In the event the ballast cleaners approached any of the above signal apparatus, it was the responsibility of Seeley to so inform the operators of the ballast cleaners so that damage to the signal apparatus could be averted.

For this service Signal Helper Seeley was compensated at his regular Helper's rate of pay.

Local Chairmen will you arrange to place the plan agreed upon at our meeting of March 4 in effect.

T. T. H."

After a Conference with the Organization, Management's proposal as outlined above was put into effect. The Carrier wishes to advise the Board that as a result of this reorganization two Helper rates were created at Chatham, N.Y. and it was one of these Helper rates that claimant was assigned to at Chatham, N.Y. on May 6 and 7, 1955.

3. CLAIM OF SIGNAL MAINTAINER J. W. BRODERICK AND L. H. SHAVER ARE WITHOUT MERIT.

Signal Maintainer J. W. Broderick was properly compensated under the Agreement for the service which he performed on May 6, 1955 and his claim for extra time at the Signal Maintainer's rate of time and one-half for the actual time worked by C. J. Seeley on May 6, 1955 is without merit and should be declined.

Maintainer L. H. Shaver was properly compensated for the service which he performed on May 7, 1955. This claim for extra time at the Signal Maintainer's overtime rate for actual time worked by Helper Seeley on May 7, 1955 is without merit and should be declined.

The Carrier has shown that the type of work performed by Claimant C. J. Seeley was work which properly came within the scope of work that may be performed by Signal Helpers. In the assigning of this work to Mr. Seeley the Carrier has shown that there is no schedule rule violation. It is the Carrier's contention that in the calling of Mr. Seeley for this assignment the proper employee was called under the Working Agreement and that there would be no occasion to call Maintainer Broderick on May 6 and Maintainer Shaver on May 7 to perform the service which was performed by Mr. Seeley. Therefore, the claims of Messrs. Seeley, Broderick, and Shaver are without merit. The Carrier asks the Board to decline all three claims in their entirety.

OPINION OF BOARD: This controversy stems from the use on May 6 and 7, 1955, of a signal helper, Claimant Seeley, to protect signal apparatus from damage in the operation of a Speno ballast cleaning machine in the Chatham, New York, vicinity. Seeley received his regular rate of pay for the work he performed on those days but the claim is that he should have been paid the higher wage rate of a signal maintainer since he performed the duties of that position during the times in question.

Petitioner points out that Rule 2 (f) of the applicable Agreement specifically prescribes that "Signal Helpers shall not be required to perform work of the other classes covered in this Agreement." The Rule defines a Signal Helper as "an employee assigned to perform work generally recognized as Signal Helper's work, which includes the unskilled work covered by the Scope of this Agreement." Rule 2 (d) of the Agreement describes a Signal Maintainer or Signal Mechanic as "an employee assigned to construct, install, maintain or repair signals or interlockings, or to perform other work generally recognized as signal work."

It does not appear that Seeley did any more on May 6 and 7, 1955, than accompany the Speno machine to observe, and inform its operator of the location of underground cables, control indicators and other signal apparatus in order to avoid damage to that equipment by the machine. The record does

not establish that these responsibilities justify the payment of the signal maintainer's wage rate. There is not a scintilla of evidence that Seeley used the tools or performed the construction, installation, maintenance, repair or other duties of signal maintainers.

On the basis of the record developed on the property, we have no alternative but to deny Seeley's claim.

The other portions of the claim—those relating to Broderick and Shaver—concern two signal maintainers who allegedly were entitled to the work performed by Seeley on May 6 and 7, 1955. It appears that Broderick and Shaver did perform their regular duties at the times in question and since, in any event, their claims are predicated on Seeley's claim, they will be denied.

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 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: S. H. Schulty

Executive Secretary

Dated at Chicago, Illinois, this 26th day of February, 1960.