

Award No. 12134
Docket No. SG-11179

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Arthur W. Sempliner, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

KANSAS CITY TERMINAL RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Kansas City Terminal Railway Company that:

(a) The Carrier violated the current Signalmen's Agreement, as amended, especially Rule 12 (e), when it failed and/or refused to assign the senior available employe to a signal maintenance position at Tower No. 4 from 3:00 P. M. until 11:00 P. M. on December 29, 1957, during the absence of the regular assignee.

(b) The Carrier now compensate Leading Signal Maintainer L. C. Eckenroed for 8 hours at his pro rata rate of pay for December 29, 1957. [Carrier's file SG-19]

EMPLOYEES' STATEMENT OF FACTS: Mr. L. C. Eckenroed had been regularly assigned to a position of Leading Maintainer, which includes the first trick (7 A. M. to 3 P. M.) at Tower No. 3 on Wednesday, Thursday and Friday. He protects Tower Nos. 3, 4 and 14, on Saturday and Sunday as those are the regular rest days for the first trick Maintainers at Tower Nos. 4 and 14 and no relief is provided. His assigned rest days are Monday and Tuesday.

Mr. E. L. Ash had been regularly assigned to a position of Signal Maintainer for the first trick at Tower No. 4 Monday thru Friday, with Saturday and Sunday as rest days.

On Sunday, September 29, 1957, Mr. L. C. Eckenroed worked his regular assignment. On that date the regular assignee of the second trick (3 P. M. to 11 P. M.) signal maintenance position at Tower No. 4 was absent and Mr. Eckenroed was used to fill that casual vacancy, which immediately followed his regular tour of duty.

On Sunday, December 29, 1957, Mr. L. C. Eckenroed worked his regular assignment. On that date the regular assignee of the second trick signal maintenance position at Tower No. 4 was absent, but instead of assigning

(See the four separate classes listed in Rule 1 hereinbefore quoted.).

Briefly summarizing, Claimant Eckenroed was not used to fill the vacancy at Tower No. 4 as a Signal Maintainer on Sunday, December 29, 1957, from 3:00 P. M. to 11:00 P. M. for the following reason:

The vacancy was in a class designated in Rule 1 as that of Signal Maintainer. Mr. Eckenroed was not in that class as he was a leading signal maintainer.

The Carrier firmly believes that Mr. Murray's vacancy was properly filled by the senior man in the same class as the vacancy occurred and respectfully request your Board to deny instant claim for lack of schedule rule support.

All of the facts and information contained in this ex parte submission have been discussed with employee representatives during the handling on the property of this particular claim.

(Exhibits not reproduced.)

OPINION OF BOARD: The claim is based on the Carrier's alleged failure to assign the Claimant, a leading signal maintainer or the first trick, to fill a temporary vacancy of signal maintainer on the second trick, during the absence of the regular holder of the position. Rule 12 (e) reads:

"When overtime service is required of a part of a crew or group of employees, the senior employees of that crew or group, of the class involved shall have preference to such overtime if they so desire."

It becomes necessary to define the word class as used in 12 (e) above. Article 1 of the agreement under the heading Classification (a) defines a **Leading Signal Maintainer**, as a **Signal Maintainer** who supervises other employees. Sections (b), (c), and (d) describe in turn **Signal Maintainer**, **Assistant Signal Maintainer**, and **Signal Maintainer Helper**. Thus the agreement itself provides the classification of these employees.

The agreement further makes reference to classes in Rule 24 (b), in regard to seniority, establishing Seniority Classes A, B, and C. It is clear however that seniority of employees exists within the seniority classes thus established, and reference to a class in Rule 12 (e) does not refer to Seniority Classes A, B, and C of Rule 24 (b). Thus the Claimant who was a **Leading Signal Maintainer**, was in the **Leading Signal Maintainer's Class**, and not in the class of **Signal Maintainers**. He should not have been called to perform the overtime on the second shift in a position of **Signal Maintainer**, any more than **Signal Maintainer Helper** should have been called, as he was in a different class.

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

That the parties waived oral hearing;

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: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 24th day of January, 1964.

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The majority, though obviously skilled in verbal kymnastics, have been unable to disguise their determination to afford the Carrier relief from the agreement under the guise of an interpretations.

Award 12134 is in error; therefore, I dissent.

/s/ W. W. Altus
W. W. Altus
Labor Member