

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Lee R. West, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

LOUISVILLE AND NASHVILLE RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Louisville and Nashville Railroad Company:

In behalf of Signalman W. H. Allen for fourteen hours at the time and one-half rate of Signalman on account of not being called and a junior employe to him being used to correct line wire failures between Mascoutah and Rentchler, Illinois, on January 5, 1959, at about 2:00 A. M. [Carrier's File: G-304-18, G-304]

EMPLOYES' STATEMENT OF FACTS: On January 5, 1959, Signalman T. C. Jones and Assistant Signalman V. R. Stansberry, both assigned to Evansville Division Signal Gang No. 17, were called at approximately 2:00 A. M. to correct line wire failures between Mascoutah, Illinois, and Rentchler, Illinois. Both employes worked for a period of 14 hours in clearing the failures, and both were paid time and one-half at the Signalman's rate of pay for such service.

Signalman W. H. Allen was also assigned to Evansville Division Gang No. 17 but was not called or used for the overtime service performed by Signalman Jones and Assistant Signalman Stansberry on January 5, 1959.

In view of the fact that Assistant Signalman Stansberry performed the work of a Signalman and was compensated at the Signalman's rate of pay for such service, a claim was filed in behalf of Signalman W. H. Allen, who was senior to Assistant Signalman Stansberry, by Local Chairman G. L. Choate with Mr. E. S. Williams, Signal Supervisor, under date of February 21, 1959, as follows:

"On January 5, 1959 two employes assigned to Evansville Division Signal Gang No. 17, namely, Signalman Mr. T. C. Jones and Assistant Signalman Mr. V. R. Stansberry, were called to correct line wire failures between Mascoutah, Illinois and Rentchler, Illinois. These employes were called at or about 2:00 A. M. January 5, 1959

Carrier submits that in the circumstances there is no basis for the employees' claim and same should, therefore, be denied.

OPINION OF BOARD: This claim arises on behalf of Signalman W. H. Allen because an employee junior to him and a member of the same work gang was called for overtime work on January 5, 1959 to correct line wire failures. Claimant contends that the assignment of the junior employee, V. R. Stansberry was a violation of the agreement and cites Rule 17 (d) as follows:

"(d) When overtime service is required of a part of a group of employees who customarily work together, the senior available employees of the class involved shall have a preference to such overtime if they so desire."

However, Carrier contends that the above rule has not been violated and that Stansberry was the "senior available employee" under the circumstances. The record supports this contention. When communications failed, the dispatcher located at Evansville notified the Assistant Signal Supervisor at Carmi, Illinois, to investigate. He, in turn, called V. R. Stansberry who was also in Carmi to assist him in locating the trouble. The Claimant was at Mount Vernon, Illinois a distance of 47 miles from the point where the investigation was commenced. In view of the exigency of the situation, we hold that Claimant was not "available" since he was 47 miles away and that Stansberry was the "senior available employee" within the meaning of Rule 17 (d). For this reasons the claim must be denied.

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 has not been violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 21st day of May 1964.