

Award No. 12658
Docket No. SG-11983

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

David Dolnick, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

**CHICAGO, ROCK ISLAND AND PACIFIC
RAILROAD COMPANY**

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Chicago, Rock Island and Pacific Railroad Company that:

(a) The Carrier violated the current Signalmen's Agreement, particularly Rules 1, 3(b), 5, and 7, when it assigned more than the two employees stipulated by Rule 3(b), to Leading Signalman J. L. Snapp, Rule 3(b) (limited), during the first pay period of February, 1959, while performing work at the Rushville-Missouri Interlocking.

(b) The Carrier now be required to compensate Leading Signalman J. L. Snapp, Rule 3(b) (limited), for the difference between the Leader's rate of pay and that of a Foreman from February 9 to February 14, 1959, inclusive. [Carrier's File: L130-156]

EMPLOYEES' STATEMENT OF FACTS: Mr. J. L. Snapp, the claimant in this dispute, was assigned to the position of Leading Signalman on Crew No. 10 under the provisions of Rule 3(b) of the current Signalmen's Agreement. He was assigned by the Carrier to work at the Rushville-Missouri interlocking plant to perform certain signal work in connection with changing the interlocking plant from a mechanical plant to an automatic plant.

During the period of February 9 through February 14, 1959, inclusive, Signal Testman R. L. Jensen, whose assigned headquarters is Des Moines, Iowa, and Signal Helpers L. R. Beer and L. Morgan, whose regular assignment is Gang No. 1 also located at Des Moines, Iowa, were transferred by the Carrier to Rushville to work with Leading Signalman Snapp in making the signaling changes at the Rushville-Missouri interlocking plant.

In view of the fact that Leading Signalman Snapp was required to supervise the work of more than two men during the period of time from February 9 through February 14, inclusive, General Chairman R. A. Watkins filed the following claim in his behalf under date of March 24, 1959, with Signal Engineer H. Jensen:

ville, Missouri in connection with changing interlocking from a mechanical to an automatic plant, and Leading Signalman J. L. Snapp, Crew 10, who receives a differential as such, was also used to assist.

An Agreement between the Carrier and the employes of the Carrier, represented by the Brotherhood of Railroad Signalmen, bearing an effective date of July 1, 1952, is on file with your Board and by this reference is made a part hereof.

POSITION OF CARRIER: The employes claim that Leading Signalman Snapp was assigned to supervise the work of the two helpers and the higher rated Signal Testman.

The carrier's position is that Mr. Snapp, the claimant, was not assigned by the carrier to perform any supervision, he merely assisted in the work and the employes can furnish no evidence that the carrier designated or assigned the claimant to supervise this particular project. As a matter of fact, in submitting his own payroll, the claimant did not show he was even working with the 2 helpers and the Signal Testman who, of course, under Rule 1, can "perform any Signal Department work" and who was at the project in connection with inspecting and testing as provided in the rule.

The employes in handling the claim on the property allege Rules 1, 3(b), 5 and 7 were violated, but we submit none of these rules, on basis of the facts, were violated and we respectfully request denial of the claim.

OPINION OF BOARD: Claimant held the position of Leading Signalman on Crew No. 10. Petitioner contends that a Signal Testman and two Signal Helpers were assigned to work with and under the supervision of Claimant from February 9 to 14, 1959. The claim is for the difference between a Foreman's rate and the rate paid to Claimant as a Leading Signalman. Petitioner relies on Rule 13(b), the pertinent part of which reads as follows:

"LEADING SIGNALMAN — (Limited)

A signalman provided with headquarters meeting requirements of Rules 77, 78 and 79, working alone or with and supervising the work of not to exceed two employes on small projects shall be classified as a Leading Signalman. . . ."

On April 13, 1959, Carrier's Signal Engineer wrote to Petitioner's General Chairman, in part, as follows:

"During the period February 9th thru 14th, J. L. Snapp worked alone on Crew No. 10, which can be verified by a check of the payroll submitted by him for the first period of February. Messrs. Beer and Morgan were working under the direction and supervision of Mr. Scharf, Assistant Signal and Communications Supervisor."

Again, on July 14, 1959, Carrier's Vice President-Personnel wrote to the General Chairman, in part, as follows:

"Mr. Snapp's own payroll, submitted by him, did not show that helpers Beer and Morgan were working with or under the supervision of Mr. Snapp. He was working alone in Crew 10. I can therefore see no violation of Rule 1, 3, 5 nor 7 and your claim is respectfully declined."

There is no probative evidence in the record to support the allegation that Claimant supervised the three employees. A mere assertion is not evidence. Petitioner has presented no evidence to support the assertion. Rule 7 does not prohibit an Assistant Signal and Communications Supervisor from supervising Signal Helpers.

Furthermore, a Signal Testman may perform any signal work. This is specifically provided in Rule 1 which says:

"RULE 1 — SIGNAL TESTMAN

An employe who is regularly assigned to and whose principal duties are the inspection and testing of signal appliances, apparatus, circuits, and appurtenances, but who may perform any Signal Department work, shall be classified as a Signal Testman."

There are no restrictions on what signal work a Signal Testman may perform. And this is for obvious reasons. He is the highest paid employe in the Signalmen's Agreement; higher than the Foreman and the Leading Signalman. It is most unlikely that a Leading Signalman will supervise a Signal Testman.

On the basis of the record, and for the reasons herein stated, we are obliged to conclude that there is no merit to the claim.

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 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 did not violate the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 19th day of June 1964.