Award No. 12949

Docket No. SG-12342

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION
(Supplemental)

Benjamin H. Wolf, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

ILLINOIS CENTRAL RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Illinois Central Railroad Company that:

(a) The Carrier violated the current Signalmen's Agreement when on June 19, 1959, it assigned a group of Signal Maintainers and a Testman to perform signal construction work at Decatur, Illinois, specifically that of moving a flasher signal at Eldorado Street.

(b) The Carrier now be required to compensate the following signal gang employes for eight (8) hours straight time each and one (1) hour overtime each as a result of the violation cited in part (a):

Mr. L. W. Kennedy	Mr. R. W. Hunsley
Mr. F. E. Carroll	Mr. C. F. Uchtman
Mr. T. J. Duggan	Mr. J. L. Smith
Mr. R. E. Howlett	Mr. S. C. Arnold

[Carrier's File: 135-214-67 Spl. Case No. 101 Sig.]

EMPLOYES' STATEMENT OF FACTS: On June 19, 1959, this Carrier assigned three (3) Signal Maintainers and a Testman to perform construction work in connection with the relocation of a highway crossing signal at Eldorado Street in Decatur, Illinois. A drag line with an operator was also used to assist the Signal Maintainers and the Testman in relocating the flasher signal. Each of the Signal Maintainers assigned to perform the above work were regular assignees to individual signal maintenance positions which they had acquired on bulletin through exercising their respective seniorities.

Signal Maintainer C. W. Gardner was the regular assignee to a signal maintenance position with headquarters at Clinton, Illinois. Signal Maintainers F. L. Conant and I. E. Williams were regular assignees to signal maintenance

We contend, therefore, that the work of moving a flasher signal may be properly assigned to Signalmen, Signal Maintainers, or both. Involving a similar set of rules as here involved—Scope Rule, Classification Rule, and Seniority Class Rule—the Board, in Third Division Award 7446, held:

> "It seems clear to us that under the circumstances present here the applicable provisions of the Agreement cited permitted, rather than proscribed, the assignment for claimant could not be held to enjoy an exclusive right to the work in question."

Third Division Award 6946 held:

> "It is clear, we think, that a position within the scope of one craft could not be staggered with a position under another craft when the work is the exclusive work of one . . . Neither could two employes in the same craft holding positions in different seniority districts be staggered under this agreement; nor may two positions in different classes be staggered where common seniority between the classes does not exist. **But where classes are established within a craft for purposes other than the establishment of seniority rights, positions in the two classes may properly be staggered if each is qualified to perform the work of the other." (Emphasis ours)**

Here the two classifications involved—Signalmen and Signal Maintainers—are in the same craft, same seniority class, same seniority district, and receive the same rate of pay; the work of moving a flasher signal, we submit, is properly assignable to either.

Signalmen and Signal Maintainers, on this property, have historically performed overlapping duties. The difference between the two classifications has been simply this: A Signal Maintainer is generally assigned to maintain a designated territory, while Signalmen are generally assigned to a gang to perform heavy programmed installation work over the seniority district. There has been no definite line of demarcation between the two. Signal Maintainers, in maintaining their territories, often are called upton to make light general repairs or install signal equipment—work that does not require the services of an entire gang—and they are on occasions called upon to work with a signal gang. A Signal Gang, on the other hand, often performs work on a Signal Maintainers territory that the latter would have performed had the Signal Gangs services been required elsewhere. That there are overlapping duties between the two classifications simply cannot be effectively denied.

Here, the City of Decatur called upon the Carrier to move one of its flasher signals some 30 inches, and the Carrier properly assigned three Signal Maintainers and a Dragline to perform the work, which required no more than five hours to do. The Signal Gang involved was fully occupied with other duties at Lincoln, Illinois, some 33 miles away, and there was no reason to disrupt their work at that point and transport them to Decatur to perform work that they simply do not have exclusive rights to.

The claim is without merit and should be denied.

OPINION OF BOARD: The claim arose because Carrier used 3 Signal Maintainers and a Testman to move a highway crossing signal instead of a signal gang. A drag line operator was also used to assist in the work.

This Board has previously held that the classification rules of this Agreement do not mean that the work of each classification will be restricted to the employes of the class. Award 12501 (Wolf). Since then, the Agreement

has been amended by the addition of the following to Rule 107:

"NOTE: Employes covered by Rules 106 and 107 may be used interchangeably to fill out their time in a day's work."

The Organization contends that this note is an exception and implies that no other Employes may interchange work. We do not so construe it. If the parties had intended it so, they could have said as much. Since they did not, we can take the note only to mean the extent to which they agreed. Everything else must be deemed unchanged.

The note, moreover, is not an exception, but, rather, a clarification. It does not restrict the provisions of the rule. If the parties had wished to grant an exclusive right over certain work to each class, they could have said so. They did not say, "No other employes may be used interchangeably."

It is also curious that the parties resorted to a "note" rather than making the text an integral part of the rules. The resort to a note can only mean that the parties regarded its text as of secondary importance, a making more explicit of something already said or implied.

Carrier, however, did concede that all the work done was signal work. Accordingly, no one other than those employes covered by the Agreement should have been used. The use of a drag line operator was a violation of the Agreement. Carrier's offer to pay one hour penalty time to any Claimant named by Employes' General Chairman must be deemed an admission that it had violated the Agreement. In its reply Carrier tried to minimize this concession by asserting that drag line operators are frequently used to assist signalmen. This was mere assertion and not proof. The Organization is entitled to damages of one hour's pay as offered by the Carrier.

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 violated the Agreement.

AWARD

Claim sustained to extent indicated in Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 9th day of October, 1964.