

**Award No. 13149**

**Docket No. SG-13611**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

**(Supplemental)**

**John J. McGovern, Referee**

**PARTIES TO DISPUTE:**

**BROTHERHOOD OF RAILROAD SIGNALMEN**

**SOUTHERN PACIFIC COMPANY  
(Pacific Lines)**

**STATEMENT OF CLAIM:** Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Southern Pacific Company that:

(a) The Southern Pacific Company violated the current Signalmen's Agreement effective April 1, 1947 (reprinted including revisions April 1, 1958), particularly the Scope Rule and Rule 70.

(b) Mr. C. M. Johnson and T. W. Hawkins be paid three and one-half (3½) hours at their respective overtime rate of pay for August 1, 1961, from 5:00 P. M. to 8:30 P. M. for a total as follows: Mr. C. M. Johnson \$14.12 and Mr. T. W. Hawkins \$14.12.  
[Carrier's File: SIG-152-109]

**EMPLOYES' STATEMENT OF FACTS:** This dispute is a result of the Carrier's action of assigning other than signal forces to provide flag protection at a highway grade crossing during the time that automatic highway crossing protection devices that had been installed and maintained by signal forces were out of order and/or being repaired. The basic issue is whether or not signal forces have a contractual right to provide flag protection at a highway grade crossing after they had installed automatic highway crossing protection devices and during such periods of time that such devices are temporarily out of service and/or being repaired by signal forces. The same issue is involved in this Division's Docket SG-12719. However, the Carrier has been somewhat inconsistent in its argument. During the handling of the dispute involved in Docket SG-12719, Carrier asserted that flagging is work that accrues to track forces because crossing watchmen and crossing flagmen are classified in the Maintenance of Way Agreement. In the instant case, Carrier argues that any employee may be used for such work.

The person (or persons) providing flag protection under conditions similar to those involved herein not only protects the trains and highway vehicular traffic—he (or they) also provides protection for the signal employees while they are making the necessary repairs to the crossing protection de-

**OPINION OF BOARD:** We find that this claim involves the same parties and question as that involved in Award No. 13143. Following our decision in that case, this claim 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 Employee 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 11th day of December 1964.