

Award No. 14394
Docket No. SG-14314

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Nicholas H. Zumas, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

CENTRAL OF GEORGIA RAILWAY COMPANY

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

(a) The Carrier violated and continues to violate Rules 3, 8(b), 24 and 49 of the Agreement of July 1, 1950, and the Agreement of June 1, 1955, as well as Article 12 of the National Vacation Agreement as interpreted by Referee Wayne L. Morse, and any other applicable rules, when the Carrier forces an employe to do vacation relief work in violation of said rules and agreements.

(b) Beginning on May 7, 1962, and continuing until such time as the violation is corrected, R. L. Stewart and any other employe adversely affected, who can be identified by the payroll records, be paid the difference in the rate of pay which they are paid and the rate of pay which they should be paid -- the rate of pay for Relay Repairman and Relief Maintainer or the rate of pay for the Assistant Relay Repairman-Assistant Relief Assistant Maintainer.
[Carrier's File: SIG 471, Docket Sig 9354]

EMPLOYEES' STATEMENT OF FACTS: This dispute is a result of the Carrier's action in requiring gang employes to perform vacation relief work which they do not want, and for which they do not apply. While Mr. R. L. Stewart is the only employe specifically named in the Statement of Claim, the instant claim is for a continuing violation and was filed to protect the rights of all employes similarly affected, beginning May 7, 1962 and continuing until such time as the violation is corrected. (Section 3 of Article V of the August 21, 1954 Agreement provides that the filing of one claim will fully protect all rights of the claimant or claimants involved as long as such violation, if found to be such, continues.)

A basic issue involved herein is our contention that regularly assigned gang employes should not be required to provide vacation relief work on maintenance positions if they do not apply for such work; and if they are so used against their wishes they should be classified and paid as Relay Repair-

amended. Not knowing of any rule, interpretation or practice that has been violated, the Carrier has denied this baseless claim in its entirety in all handlings on the property.

OPINION OF BOARD: Claimant, a regularly assigned Assistant Signalman, was required by Carrier to relieve a Signal Maintainer because of vacation from May 7 to May 18, 1962. For this vacation relief work, Claimant was paid the Signal Maintainer's rate which is higher than that of Assistant Signalman.

Claimant, through the Organization, contends that regularly assigned employees should not be required to provide vacation relief work if they do not apply for such work; and if they are so required, they should be classified and paid as Relay Repairmen and Relief Maintainers or as Assistant Relay Repairmen--Assistant Relief Assistant Maintainers, whichever the case may be.

(It should be noted that while Mr. R. L. Stewart is the only named Claimant, the claim is brought also on behalf of "any other employee adversely affected, [and] who can be identified by the payroll records.")

Carrier contends that under the June 1, 1955 Supplemental Agreement which provides, in part, that:

"Effective June 1, 1955, vacation relief work will be performed by Assistant Signalman or Helper in the gang, or furloughed men if there is no gang working."

it is not obligated to relieve Maintainers with a Relay Repairman and Relief Maintainer, nor is it required to classify and pay anyone else as a Relay Repairman and Relief Maintainer before they can provide vacation relief for a Maintainer.

The Organization's rejoinder to Carrier's assertion is that the 1955 Supplemental Agreement comes into effect only when employees actually apply for relief work and not when required by Carrier to perform it. If the Supplemental Agreement is not applicable, the Organization continues, Rule 24 of the basic Agreement of 1950 is operative, and as such Carrier was required either to fill the position with a Relay Repairman and Relief Maintainer (whose duties include relieving Maintainers) or someone classified as such for relief purposes who should therefore be paid the rate of that position.

The 1950 basic Agreement defines a Relay Repairman and Relief Maintainer as "An employe whose principal duties are repairing, checking and adjusting relays and other signal apparatus and relieving maintainers."

Rule 24 of the Agreement states:

"When an employe is required to fill the place of another employe receiving a higher rate of pay, he shall receive the higher rate for the entire tour of duty, but if required to fill the place of another employe receiving a lower rate, his rate will not be changed."

Whether or not the 1955 Supplemental Agreement were applicable (Cf. Award 10501 relating to expenses under the same agreement), we find that this claim should not be sustained. Even if the Supplemental Agreement were

not applicable, the Organization, in order to prevail, must show that Relay Repairmen and Relief Maintainers had exclusive jurisdiction to relieve Maintainers, and as such, the person performing such relief work is entitled to that classification and pay.

The record indicates that the Organization failed to meet its burden of proof, and the claim must therefore be denied.

In light of this finding, it is unnecessary to consider the further question of unidentified Claimants.

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

The Claim is denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 5th day of May 1966.