

Award No. 14473
Docket No. SG-11948

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John H. Dorsey, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

THE PENNSYLVANIA RAILROAD COMPANY

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

The Company violated the Agreement and especially Article 1, Section 2(a), Article 1, Section 3, and Article 4, Section 20(b). The Company also violated the Vacation Agreement and especially Article 10(b). The Maintainer T. & S., with headquarters at Marion, Indiana, was on vacation from June 9 through June 13 and the Company assigned the duties of this section of W. D. Best, Leading Maintainer, whose duties are to work with and supervise the work of one or more Signal Maintainers. W. D. Best performed more than 25% of the duties of Section 4-L. Therefore, the Committee makes a claim for all time made by Best in behalf of W. L. Baker. [Docket No. 97 — Northwestern Region Case No. 14.]

EMPLOYES' STATEMENT OF FACTS: On or about November 1, 1953, Mr. W. D. Best was assigned to a position of Leading Maintainer with an assigned territory extending from Mile Post 83.4 to Mile Post 192. This territory covers five (5) signal maintenance sections identified as 1-L, 2-L, 3-L, 4-L, and 5-L. Leading Maintainer Best has jurisdiction over the Maintainers assigned to those sections.

Prior to June 9, 1958, Mr. R. L. Hinkle was assigned to section 4-L. Under date of April 17, 1958, Mr. L. W. Hayhurst, Supervisor C & S, issued the 1958 vacation schedule, which indicated that Mr. R. L. Bridenthal was designated to relieve Mr. Hinkle while the latter was on his vacation from June 9 to 20, 1958, inclusive. However, the Carrier did not provide a vacation relief worker for section 4-L while Mr. Hinkle was on vacation. Instead, it instructed Leading Maintainer Best to protect the territory, and he subsequently spent more than 25% of his time working alone and performing work that would have been performed by the regular Maintainer or by the vacation relief employee.

During the week of June 9 through 13, 1958, Mr. W. L. Baker was the senior furloughed employee so, under date of **June 21, 1958, Mr. W. D. Best,**

From June 9, 1958 to June 20, 1958, the incumbent regularly assigned at Section 4-L (M.P. 139 to M.P. 168) was absent from duty on account of having been granted a vacation.

During the period in question, the incumbent regularly assigned as Leading Maintainer, whose territory extends from M.P. 83.4 to M.P. 192, Logansport, Indiana, and includes the territory of Section 4-L (M.P. 139 to M.P. 168), was required during his regular tour of duty, to make certain tests on the territory from M.P. 139 to M.P. 168, as follows.

The time consumed in making these tests was as follows:

June 12, 1958 — 3 hours on Test 27-A at M.P. 163.2
June 13, 1958 — 3 hours on Test 27-A at M.P. 152.2
June 16, 1958 — 4 hours on Test 27-A at M.P. 157.3
June 19, 1958 — 5 hours on Test 20 & 21 at M.P. 145.1
June 20, 1958 — 3 hours on Test 19-B at M.P. 150.5

Total time consumed in making these tests was eighteen (18) hours.

In view of the foregoing it can clearly be determined the work of the vacationing employee that was allocated to the Leading Maintainer was insufficient in volume to require the designation of another employee to fill the place of the vacationing employee. Therefore, no violation of Article 10 (b) of the National Vacation Agreement exists.

Further, Article 1, Section 2 (a), Article 1, Section 3 and Article 4, Section 20(b) of the Schedule Agreement are not applicable in the instant case.

Consequently, claims as listed in the subjects are denied."

Therefore, so far as Carrier is able to anticipate the basis of the claims, the questions to be determined by this Board are whether the Carrier violated the provisions of Article 10 (b) of the Vacation Agreement of December 17, 1941, when it used the Lead Maintainer to perform certain items of inspection work normally performed by the Maintainer on Section 4-L, while the regular Maintainer was observing his vacation, and whether the Claimant is entitled to the compensation which he claims.

(Exhibits not reproduced.)

OPINION OF BOARD: The Organization contends that Carrier assigned more than 25% of the work load of the vacationing Maintainer to the Leading Maintainer in violation of Article 10 (b) of the Vacation Agreement.

Reading Article 10(b), with benefit of Referee Morse's interpretation of that Article, we conclude that for the Organization to prevail it had the burden of proving by a preponderance of evidence of probative value that: (1) more than 25% of the work load in excess of that normally assumed by the Leading Maintainer in the vacationing Maintainer's section had been assumed by the Leading Maintainer; or, (2) a "burden" had been placed on the Leading Maintainer in the performance of work normally performed

by the vacationing Maintainer; or, (3) a "burden" was placed on the vacationing Maintainer on his resumption of duty because of work remaining to be performed. Organization failed to satisfy its burden of proof with respect to any one of the three. We will dismiss 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 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 Organization failed to prove that Carrier violated the Agreement.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 27th day of May 1966.