

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

David L. Kabaker, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

SEABOARD AIR LINE RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Seaboard Air Line Railroad Company that:

(a) Inasmuch as the Carrier contends that it is necessary for it to have signal maintenance service every day except Sunday over the signal-equipped portions of its lines, and the Board sustained that contention in Award No. 9627, the Carrier is now in violation of the current Signalmen's Agreement, as amended, particularly Rule 13, by refusing to establish rest-day relief assignments to perform service on the sixth day of the work week.

(b) In the event the Carrier is not agreeable to establish the rest-day relief assignments, or place all employes on a Monday through Friday work week, this is a claim on behalf of those signal employes who would be entitled to promotion, and/or to fill such rest-day relief assignments, if such assignments were established, or in lieu thereof, an extra day's pay each work week at the respective overtime rate, for the regular assigned signal maintainers who would be entitled to the additional days of service on their assigned territory, until such rest-day relief assignments are made, or until a Monday through Friday work week has been established with Saturdays and Sundays as the assigned rest days for all signal maintenance forces, as the case may be. [Carrier's File: 7b; G-60-Sig. 4]

EMPLOYEES' STATEMENT OF FACTS: For a number of years prior to September 1, 1949 most hourly rated non-operating railroad employes worked six days per week. An agreement between sixteen cooperating railway labor organizations and the major railroads of the country provided for a basic work week of forty hours, effective September 1, 1949. Pursuant to the negotiation of that agreement, the Carrier placed in effect, as of September 1, 1949, a shorter work week of forty hours, consisting of five days of eight hours each with two consecutive rest days off in each seven.

OPINION OF BOARD: Award 9627 between these same parties arose out of an incident which occurred in 1954, after the inception of the forty hour work agreement, (effective September 1, 1949). Carrier staggered the workweek of its signal maintenance employes, placing about half on a Monday through Friday workweek and the remaining half on a Tuesday through Saturday workweek. All employes were on the same seniority roster.

The Brotherhood protested the Carrier's action in staggering the workweek and the claim became the subject matter of Award 9627, (Referee Begley). The Board denied the claim and upheld the action of the Carrier in the establishment of a staggered workweek.

The claim of the Brotherhood in the instant claim is based on the fact that the Board in Award 9627 found that six day signal maintenance service was necessary.

It further claims that the Carrier is now in violation of Rule 13 of the Signalmen's Agreement in that it refuses to establish rest-day relief assignments to perform service on the sixth day of the workweek.

Although the Brotherhood contends that Rule 13(c) requires that relief assignments must be established where six day signal service exists, it must be the conclusion that the establishment of relief assignments in the instant claim is not required.

The evidence supports the Carrier's position that relief assignments are not necessary to meet its operational requirements in the staggered workweek situation involved in this matter.

Awards 6184, 6946 and 9392 contain persuasive and controlling reasons for the conclusion that the Brotherhood's claim must be denied.

Award 6946 states the following which is equally applicable herein:

"Such regular relief assignments are not required to be established except where carriers' operational requirements make them necessary."

". . . We have repeatedly held, and correctly we think, that the assignment of regular relief positions and of work on unassigned days is not a condition precedent to the staggering of work weeks."

"The foregoing conclusions are sustained generally by Awards 5545, 5555, 5557, 6001, 6002, 6042, 6075, 6184, 6212, 6216, 6232, 6602. Awards 1528, 1565, 1566, 1644, 1669 Second Division."

In the light of the above cited awards, the Board is of the opinion that the claim must be denied.

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 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 2nd day of August 1966.

DISSENT TO AWARD NO. 14731, DOCKET SG-13537

Award No. 14731 cannot be reconciled with Award No. 9627; one or the other must be in error. (See dissent to Award No. 9627.)

The pertinent rule states in part:

"RULE 13. (a) The expressions 'positions' and 'work' when used in this Rule 13 refer to **service, duties or operations necessary to be performed the specified number of days per week**, and not to the work week of individual employees. (Emphasis ours)

The record is clear that the carrier has assigned employes to work the positions in question only five days per week; now patently, either these are five day positions and the employes are entitled to 'five day' conditions or a sixth day of work per week must be performed.

The Majority has erred; therefore, I dissent.

/s/ W. W. ALTUS

W. W. Altus
For Labor Members 8/31/66