Award No. 14834
Docket No. SG-13304

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Arnold Zack, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

THE NEW YORK, NEW HAVEN AND HARTFORD RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the New York, New Haven and Hartford Railroad Company:

(a) That the Carrier violated the current Signalmen's Agreement, especially Rule 30, when on January 20, 1961 employes in the Signal Department were temporarily furloughed without being given proper notice as provided in the Signalmen's Agreement.

(b) That the Carrier be required to compensate all employes involved in the temporary furlough under the jurisdiction of Signal Supervisor H. A. Welch for two (2) days' pay each account of the violation outlined in paragraph (a).

EMPLOYES' STATEMENT OF FACTS: On January 19, 1961, the Carrier issued notices that a large number of employes in the Signal Department would be furloughed effective 7:00 A. M., January 20, 1961. A strike of Marine workers in the New York area was in progress and the Carrier contended that this gave it the prerogative to furlough the employes without giving them the four days' notice provided for in Rule 30 of the effective Agreement, provided these employes were given at least 16 hours' notice. This contention was based on a further contention that the Marine strike resulted in the loss of revenue to the Carrier.

The Brotherhood maintains that the Carrier should have given these employes at least four days' notice as provided for in Rule 30 because the work which would have been performed by the incumbents of the positions still existed and could have been performed. Nevertheless, the Carrier furloughed the Claimants in this case without giving them the four days' notice required under the Agreement.

There were more than 100 employes in the Signal Department furloughed at 7:00 A. M. on January 20, 1961. However, this claim covers only a portion of these employes, as the Carrier and Organization have agreed to hold the other claims arising out of this situation in abeyance pending the decision of this claim. On January 20, 1961, Chief Engineer H. W. Hawkins addressed a letter to the General Chairman outlining the jobs that were furloughed on that date. See Brotherhood's Exhibit No. 1.

were abolished. These employes, as well as all other Signal Department employes whose jobs were abolished, were given sixteen hours' advance notice of the force reduction.

The following employes remained on duty at the points or in the gangs shown above:

New Rochelle Gang	1 Foreman, 1 Signalman, 1 Asst. Signalman, 1 Signal Helper
Oak Point	1 Signal Maintainer
SS-22 Interlocking	1 Signal Maintainer
SS-38	1 Signal Maintainer on each of three tricks

The positions of the following named claimants were not abolished; they were displaced by employes with greater seniority:

Signal Maintainer W. Beatty
Signal Maintainer G. H. Hargrove
Signal Maintainer E. F. Tompkins
Asst. Signalman J. Halton
Signal Helper P. Mullins

The Signal Department employes whose positions were not abolished by the Carrier, of which there were approximately 225 over the entire system, were principally engaged in the removal of snow from signals and switches and guarding against any malfunctioning of the signal system anticipatory of the resumption of train operation.

As information, several other claims in favor of signal employes under the jurisdiction of the various Signal Supervisors have been submitted by the Organization and progressed up to and including the highest officer of the Carrier designated to handle such matters. These claims have been denied and are held in abeyance pending your Honorable Board's decision in the instant case.

Copy of Agreement effective September 1, 1949, as amended, between this Carrier and the Brotherhood of Railroad Signalmen is on file with your Board and is, by reference, made a part of this submission.

(Exhibits not reproduced.)

OPINION OF BOARD: As a result of a strike involving railroad marine operations in New York City, the Carrier found it necessary to notify certain employes that their jobs were to be abolished due to the strike.

The Organization filed the instant claim on behalf of 109 Signal Department employes, alleging a violation of Rule 30 of the parties' agreement. It acknowledges that the strike did constitute an emergency which brought about a reduction of Carrier's service, but argues that there was still work available to be performed by Signal Department employes and that thus the requirements of Rule 30 were not met.

The Carrier asserts that the claim is faulty because the Claimants were not specified in the appeal to the Carrier's highest officer. On the merits, the Carrier argues that it met all the requirements of the sixteen hour notice provision in Rule 30. In particular it notes that the strike eliminated work for many hundreds of employes; that it did provide work for most signal employes clearing snow from signals, and that it was forced to cancel assignments to the Claimants because of the strike. Thus, work no longer existed for these employes.

The Carrier's claim that failure to name the specific Claimants in the Organization's appeal to the Carrier's highest officer is fatal lacks merit. We are aware of Referee Dorsey's refusal to permit amendment of the claim by addition of names after final denial of the claim on the property (Award 14498). But that award also states:

> "We have held, when a like issue has been raised, that Claimants need not be individually named if their identity is known to Carrier or is readily ascertainable."

In the instant case, the names of all Claimants had been supplied to Carrier at the lower levels of the appeal, and in addition were identifiable as those under the jurisdiction of Signal Supervisor H. A. Welch. For these reasons we find they were readily ascertainable, and that the claim was properly processed.

Turning to the merits, all other requirements of the sixteen-hour provision in Rule 30 having been met, the essential question is whether the furloughed signalmen's work "no longer exists or cannot be performed." Carrier cites several awards upholding its right to abolish positions during strikes, but in none of those awards was there an agreement limitation as here, which limits furloughs in the event of strikes or other emergencies to situations where the regular work "no longer exists or cannot be performed."

The evidence indicates that the work of the Claimants consisted of work on those signals and related equipment which were not incapacitated by the strike. Indeed, the signal facilities were probably more easily worked with than in periods when trains were being fully operated. Thus, we are unable to agree with the Carrier's contention that because of the emergency, the work no longer existed or could not be performed.

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 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 violated.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 12th day of October 1966.

Keenan Printing Co., Chicago, Ill. Printed in U.S.A.