



Award No. 14848

Docket No. SG-14371

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

**(Supplemental)**

John H. Dorsey, Referee

**PARTIES TO DISPUTE:**

**BROTHERHOOD OF RAILROAD SIGNALMEN**

**THE KANSAS CITY SOUTHERN RAILWAY COMPANY**

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

(a) The Carrier violated the current Signalmen's Agreement, as amended, when employes who were junior to G. R. Fugitt, Signalman, were used on May 17, 18, 19 and 20, 1962, to perform work in connection with a derailment just south of Hodgens, Oklahoma.

(b) The Carrier be required to pay G. R. Fugitt the difference between that which he was paid for those days and that which he would have earned had the Carrier not violated the agreement.  
[Carrier's File: 013.31-65]

**EMPLOYES' STATEMENT OF FACTS:** This dispute is a result of Carrier's action in assigning junior employes in signal gangs to perform overtime work in connection with a derailment just south of Hodgens, Oklahoma, when senior employes were available and had requested to be used for the work.

Two signal gangs headquartered in outfit cars and located at Siloam Springs, Arkansas, on May 17, 1962, were advised upon reporting for work at the beginning of their tour that there had been a derailment near Hodgens, Oklahoma. The members of both gangs were assembled in the office of Foreman R. E. Woodward. This group included Messrs. C. Treat, J. S. Renfro, G. R. Fugitt, D. Duncan, R. D. Martin, E. Verleye, D. D. Wilkins and L. A. Gandy, among others.

As indicated by the 1962 Seniority Roster, which is Brotherhood's Exhibit No. 1, Claimant Fugitt has a date in the Signalman Class of 3-5-56, while Mr. Duncan's date in that class is 6-19-61. Mr. Martin possesses no seniority as a Signalman, but he performed Signalman's work, and was compensated at that rate of pay on the dates involved in the claim.

Foreman Woodward instructed Messrs. Wilkins and Martin to load a portable generator and flood lights on a truck and proceed to the location of the derailment. They were instructed to pack a change of clothes in a grip to take with them to Hodgens. The latter instructions were apparently

Upon arrival at the scene of the derailment, it was discovered that Signal Maintainers R. E. Broom and J. E. Joplin, and Lineman T. M. Merchant were already at work on the north side of the river, and Signal Maintainer Whitehead, from Shreveport, Louisiana, Mile Post 561, had arrived from the south and was engaged in setting up flood lights on that side of the river.

The other crew continued their duties with the assistance of the men from Siloam Springs. It was later decided to recruit two more men, to relieve Renfro and Wilkins, from the forces at Siloam Springs, and E. Verleye and G. S. Blair, Jr., were contacted. Mr. Verleye advised that he was not interested in the job, and D. B. Swan was contacted. Swan requested that he be allowed to remain at home because of prior commitments with his family, and Signalman D. Duncan, who resides at Heavener, Oklahoma, Mile Post 338, was contacted, and necessary arrangements made for them to report to the site of the derailment.

After Mr. Woodward returned to Siloam Springs, the next day, to resume work on the CTC project, he received a message indicating that the situation had changed since his departure, making it necessary that the temporary lines be changed. Mr. Woodward returned to the derailment with additional material. Signalman G. R. Fugitt was placed in charge of the crew at Siloam Springs, upon the departure of Mr. Woodward.

Upon completion of the work at the derailment, the men were instructed to return to Siloam Springs, and, since Renfro and Wilkins were thoroughly familiar with the emergency hook-up, they were instructed to remain to protect against any unforeseen damage.

Claimant Fugitt, who had remained on the job at Siloam Springs, subsequently filed claim for payment because employee junior to him (at the derailment) had actually earned compensation in excess of that earned on the CTC Job at Siloam Springs, Arkansas, 113 miles away.

**OPINION OF BOARD:** Because no conference was held on the property, Carrier moves that we dismiss for lack of jurisdiction. Motion granted.

**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 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 is without jurisdiction over the dispute involved herein.

#### AWARD

Claim dismissed for lack of jurisdiction.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of THIRD DIVISION

ATTEST: S. H. Schulty  
Executive Secretary

Dated at Chicago, Illinois, this 14th day of October 1966.

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