

Award No. 15339
Docket No. SG-14748

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Claude S. Woody, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

LOUISVILLE AND NASHVILLE RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Louisville and Nashville Railroad Company that:

(a) Carrier violated the current Signalmen's Agreement, as amended, particularly Rules 6 and 17(d), when a Leading Signal Maintainer was called to perform work in the retarder yards at Boyles, Alabama, on September 9, 1962, while the regularly assigned Signal Maintainer was on vacation.

(b) Carrier be required to compensate the next senior Signal Maintainer at Boyles Retarder Yard, Mr. C. F. Wynn, three (3) hours at the time and one-half rate of pay. [Carrier's File: 13420]

EMPLOYES' STATEMENT OF FACTS: This claim is a result of Carrier assigning a Leading Signal Maintainer to perform Signal Maintainer's work at the Retarder Yards at Boyles, Alabama, on Sunday, September 9, 1962. The regularly assigned Signal Maintainer was on vacation and his position was not filled. When on this day a Maintainer was needed, the Leading Signal Maintainer, who is regularly assigned to work first trick, Monday through Friday, with a Signal Maintainer and Helper, was called by himself to perform the Signal Maintainer work. Signal Maintainer C. F. Wynn, who is regularly assigned to work third trick at the yards at Boyles had not marked off and was available for work, but he was not called.

In view the above claim was filed on behalf of Signal Maintainer C. F. Wynn by Local Chairman R. E. Cheatwood for three (3) hours at the punitive rate on the contention that Rules 6 and 17 of the Signalmen's Agreement had been violated. The initial claim is Brotherhood's Exhibit No. 1; it is dated September 14, 1962, and addressed to Mr. W. G. Ray, Supervisor Communications and Signals.

Brotherhood's Exhibit No. 2 is Supervisor Ray's denial dated November 1, 1962, in which he advised the Local Chairman that the assignment of the Leading Signal Maintainer was proper as he understood the Agreement rules. Although he acknowledged that the Leading Signal Maintainer was called because the regularly assigned first trick Signal Maintainer was on vacation, he was of the opinion that the Leader's seniority entitled him to the work.

The claim was discussed in conference May 31, 1963 and declined, the Director of Personnel's letter of June 6, 1963, confirming the declination, read as follows:

"LOUISVILLE AND NASHVILLE RAILROAD COMPANY

Office of Director of Personnel

Louisville, Kentucky

June 6, 1963

Mr. J. T. Bass, General Chairman
Brotherhood of Railroad Signalmen
Falmouth, Kentucky

Dear Sir:

This has reference to your letter of March 9, 1963, appealing claim in behalf of C. F. Wynn, third trick signal maintainer, Boyles Yard, for 3 hours at time and one-half at rate of signal maintainer, account not called when an emergency occurred in the retarder yard on Sunday, September 9, 1962.

The emergency which existed was trouble in the automatic switching code units in the retarder relay room which was causing cars to be misrouted. The trouble occurred on the first trick within the assigned territory of Lead Signal Maintainer Wilhite, for which reason he was called to look after the trouble.

Claimant Wynn, at the time involved, was assigned to the third trick maintainer position at the retarder yard and lived 65 miles from Boyles Yard.

As advised you during conference May 31, we fail to see any basis for the claim in behalf of Mr. Wynn, for which reason same is respectfully declined.

Yours truly,

/s/ W. S. Scholl
Director of Personnel"

* * * * *

The agreement involved became effective February 16, 1949, and has been revised to October 1, 1950. Copies of the agreement are on file with the Third Division.

OPINION OF BOARD: The material facts in this dispute are set out by the parties and do not appear to be at variance in any essential respect.

The parties have each set out their contentions in support of their respective positions, and agree that Agreement Rule 17(d) reading:

"When overtime service is required of a part of a group of employees who customarily work together, the senior available employees of the class involved shall have a preference to such overtime if they so desire."

is controlling. This rule has been interpreted by this Board in Award Nos. 12519 and 12520, Referee West. In Award 12519 we held that:

" . . . In view of the exigency of the situation, we hold that Claimant was not 'available' since he was 47 miles away and that Stansberry was the 'senior available employees' within the meaning of Rule 17(d). For this reason the claim must be denied."

The Claimant here was 65 miles from the work site. Award Nos. 12519 and 12520, embracing the present parties, are here accepted as precedent. This holding being sufficient to dispose of this dispute, we do not resolve the other questions raised by the parties. This claim must be dismissed.

FINDINGS: The Third Division of 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

The Claim must be dismissed.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **THIRD DIVISION**

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 10th day of February 1967.