



Award No. 15404
Docket No. SG-14438

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

George S. Ives, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

GULF, MOBILE AND OHIO RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Gulf, Mobile and Ohio Railroad Company that:

(a) The Carrier violated the current Signalmen's Agreement, as amended, particularly Rule 33, when it failed to allow monthly-rated Signal Foreman Forrest Treasure overtime pay for regularly assigned overtime on October 3, 4 and 5, 1962.

(b) The Carrier be required to compensate Mr. Treasure at the overtime rate as follows:

October 3, 1962 — one and one-half hours

October 4, 1962 — one and one-half hours

October 5, 1962 — two and one-half hours

[Carrier's File: E-45-3-7]

EMPLOYEES' STATEMENT OF FACTS: On the dates involved in this dispute, Claimant was the Signal Foreman in charge of a signal gang that was performing signal work at Lemont, Illinois. As Carrier was in a hurry to get the gang to Bloomington to install a TCS machine, it instructed the gang to work overtime in order to complete the work at Lemont that week. In accordance with those instructions, the gang worked overtime as shown in paragraph (b) of our Statement of Claim.

Claimant is a monthly-rated employee. We contend that the overtime work in question is "regularly assigned overtime" as that term has been applied in the past, and that Claimant is entitled to overtime pay for that work in accordance with Rule 33 of the Signalmen's Agreement.

Claimant listed the overtime on the time roll for the first half October, 1962. On October 16, 1962, the Superintendent Signals, Mr. W. S. Pipas, advised him that the overtime had been deleted from the time roll, and a copy of that letter is attached hereto as Brotherhood's Exhibit No. 1.

The monthly rates of pay stated in this rule are based on 208½ hours per month. Such monthly rates constitute compensation for all services performed except for work on the one assigned rest day as referred to in Rule 6 paragraph (1) and for regularly assigned overtime. When the above monthly rated employees are assigned to work regular overtime, as in the case of signal gangs, including foremen, assigned to regularly work more than eight (8) hours' per day, they shall receive additional compensation for the assigned regular overtime so worked at the rate of one and one-half times their straight time hourly rate."

NOTE: The hours per month were changed to 211 hours per month by an Agreement dated August 21, 1954.

OPINION OF BOARD: Claimant was the Signal Foreman of a signal gang performing signal work at Lemont, Illinois, which was instructed by Carrier to perform overtime work on October 3, 4, and 5, 1962 in order to expedite the completion of a particular assignment. The parties agree that no emergency existed requiring the gang to work overtime, although the Carrier was anxious to transfer the gang to Bloomington, Illinois to install a TCS machine. Claimant is a monthly-rated employee, who seeks payment for overtime work performed by him on the dates set forth in paragraph (b) of the Statement of Claim.

Petitioner contends that Claimant is entitled to additional compensation for the overtime work performed by him under the provisions of Rule 33 of the Agreement between the parties.

Carrier contends that the overtime work performed by Claimant arose out of unusual circumstances and did not constitute "assigned regular overtime" as referred to in Rule 33 of the Signalmen's Agreement. Therefore, Carrier maintains that Claimant is not entitled to additional compensation for such overtime work.

Rule 33 sets forth rates of pay for various classifications of employees covered by the Agreement between the parties and shows that gang Foremen are paid on a monthly basis whereas all classes below are paid on an hourly basis.

Rule 33 also provides as follows concerning overtime work performed by monthly-rated employees:

" . . . When the above monthly rated employees are assigned to work regular overtime, as in the case of signal gangs, including foremen, assigned to regularly work more than eight (8) hours per day, they shall receive additional compensation for the assigned regular overtime so worked at the rate of one and one-half times their straight time hourly rate."

The Agreement does not contain any definition of "assigned regular overtime" and the parties introduced conflicting evidence in support of their respective positions. Petitioner avers that it has been customary in the past to consider any time worked by monthly-rated employees after assigned hours when directed to do so by Carrier as "assigned regular overtime," unless such over-

time work arose out of an emergency situation. Petitioner has cited specific instances through June 8, 1962 in which such additional compensation was paid to two monthly-rated employees for overtime work performed by them.

Carrier has offered evidence concerning its refusal to pay additional compensation to Signal Foremen for overtime work performed between November 26 and 30, 1962. Claims for such were ultimately abandoned by Petitioner. Carrier also submitted an exhibit which purports to show time worked in excess of eight (8) hours during specified months in 1961 and 1962 by monthly-rated signal employees for which no overtime payments were made by Carrier. Said exhibit discloses that in all instances cited the employees were required to perform overtime work, which involved either replacing damaged equipment or eliminating trouble and both types of activity would appear to have arisen out of emergency situations. Moreover, none of the employees were classified as monthly-rated foreman, the specific classification involved in the instant dispute.

We are here concerned with the word "regular" as used to describe "assigned overtime work" and not "assigned employees." Therefore, we are limited to consideration of the Agreement before us and the record prepared on the property. Petitioner concedes that required overtime work arising out of an emergency situation does not constitute "regularly assigned overtime" under Rule 33 of the Agreement between the parties but contends that any other overtime assigned by Carrier to gang Foremen, paid on a monthly basis, must be considered compensable as "assigned regular overtime."

"Overtime" has been defined as "extra working time" by Webster's New Collegiate Dictionary, which definition connotes time beyond or in excess of a set limit or a regularly scheduled work assignment. Therefore, overtime assignments generally occur without regularity and arise out of the variable requirements of the Carrier. There is no evidence before us that Carrier had established specific and regular overtime assignments for its monthly paid employees, including foremen, as distinguished from the occasional performance of such overtime work as required by the exigencies of the Carrier's operations. Therefore, it is reasonable to assume that the phrase "assigned regular overtime" refers to overtime work regularly performed by covered employees as periodically required by the Carrier in the ordinary course of events as opposed to uncommon or irregular assignments of overtime work which arise out of emergencies.

In the instant dispute, Claimant was instructed to work overtime on routine signal gang work after the regular hours of his assignment on specified dates set forth in the Statement of Claim. Such overtime work did not constitute emergency work and similar overtime work previously had been assigned to employees in Claimant's classification when required by Carrier. Accordingly, the Claim will be sustained.

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 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 10th day of March 1967.