

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Nathan Engelstein, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

ST. LOUIS-SAN FRANCISCO RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the St. Louis-San Francisco Railway Company that:

(a) The Carrier violated the Scope, Classifications and other provisions of the Signalmen's Agreement, as amended, particularly Rules 2 and 62, when it failed to allow Mr. H. A. Williams, Signal Maintainer at Columbus, aKnsas, pay on August 4, 11, 18 and 25, 1962, and September 1, 8, 15, 22 and 29, 1962, when he was available for call.

(b) The Carrier allow Mr. Williams pay, as follows:

August 4 and 11	\$ 41.92
August 18 and 25	41.92
September 1, 8 and 15	67.91
September 22 and 29	45.28
Total Amount.....	\$197.03

[Carrier's File: D-3817]

EMPLOYES' STATEMENT OF FACTS: During the months of August and September of 1962, Mr. H. A. Williams filled the temporary vacancy of Traveling Signal Maintainer headquartered at Columbus, Kansas. This position is a monthly-rated one for which the rate of pay was \$565.91 per month at that time. The employees are paid on a semi-monthly basis.

Brotherhood's Exhibit No. 1 is an advertising bulletin showing the rate of pay, hours of service, rest days and description of duties of another position of Traveling Signal Maintainer, which information is equally applicable to the position with which this claim is concerned. Our reason for using this particular bulletin is to show the working conditions for such positions which were in effect at the time of this dispute.

Appeals to Mr. R. W. Troth, Superintendent Communications and Signals --- Brotherhood's Exhibit Nos. 8 and 8-A.

Denials by Mr. Troth --- Brotherhood's Exhibit Nos. 9 and 9-A.

Appeal (combined) to Mr. T. P. Deaton, Director of Labor Relations --- Brotherhood's Exhibit No. 10.

Denial (combined) by Mr. Deaton --- Brotherhood's Exhibit No. 11.

In Brotherhood's Exhibit No. 9, Mr. Troth referred to a memorandum dated November 23, 1954, which was supposed to have made certain stipulations relative to monthly rated employees. On October 27, 1963, General Chairman Cunningham wrote to Mr. Troth and asked for a copy of this so-called memorandum for he had neither seen it nor had he been furnished with a copy of it. Mr. Troth's reply of October 31, 1963, is Brotherhood's Exhibit No. 12. He states therein that it was "merely an office memorandum" and "constituted instructions issued by the Carrier."

Brotherhood's Exhibit Nos. 6, 7, 8 and 9 deal only with the shortage for the first half of August, 1962. Brotherhood's Exhibit Nos. 6-A, 7-A, 8-A and 9-A are concerned with the shortages for the last half of August and the first and last halves of September. General Chairman Cunningham combined both claims when appeal was taken to Mr. Deaton (Brotherhood's Exhibit No. 10), and Mr. Deaton, likewise, handled the denial of both claims in one letter (Brotherhood's Exhibit No. 11).

As evidenced by the correspondence cited above and the attached Exhibits, the Brotherhood has handled this case in the usual and proper manner on the property, up to and including the highest officer of the Carrier designated to handle such disputes, without receiving a satisfactory settlement.

There is an agreement in effect between the parties to this dispute, bearing an effective date of October 5, 1950, as amended, which is by reference made a part of the record in this dispute.

(Exhibits not reproduced.)

CARRIER'S STATEMENT OF FACTS: Commencing on or about July 30, 1962, Claimant H. A. Williams filled a temporary vacancy on a monthly rated position of Traveling Signal Maintainer with headquarters at Columbus, Kansas. The temporary vacancy ended October 1, 1962.

The Claimant was temporarily filling a monthly rated position based on 211 hours per month and during this period he was assigned only one regular rest day per week.

The Claimant returned from Columbus, Kansas to Springfield, Missouri on each weekend occurring within the period beginning on or about July 30 and ending October 1, 1962. The distance between Columbus and Springfield is approximately 104 miles.

All days under claim in this dispute are Saturdays. The Claimant received no compensation for the claim dates while he was at home in Springfield.

OPINION OF BOARD: Mr. H. A. Williams filled a temporary vacancy on a monthly rated position of Traveling Signal Maintainer during the months

of August and September, 1962. On each weekend during this period he left his assigned headquarters at Columbus, Kansas, and returned to his home in Springfield, Missouri, a distance of approximately 100 miles. Before going home on each Friday, he sent messages to the appropriate officers of Carrier advising where he could be reached by telephone in Springfield.

Mr. Williams claims that Carrier violated the Signalmen's Agreement, specifically Rule 62, when it failed to pay him the full monthly salary of the position of Traveling Signal Maintainer. He maintains that since he complied with Rule 19, he did not lay off of his own accord, and therefore should not have been deprived of his full monthly salary.

Carrier submits that Claimant is not entitled to compensation for the claim dates because he did not hold himself available for emergency calls since he was an excessive distance from the job headquarters. It argues that 100 miles is too far for a Signal Maintainer to properly protect his territory under emergency conditions. Furthermore, it takes the position that Mr. Williams laid off of his own accord and therefore pursuant to Rule 62 Carrier properly deducted payment for the claim dates which were not rest days but stand-by days. In short, Carrier contends "that Claimant made himself unavailable for stand-by service on his stand-by days."

In resolving this dispute it is necessary to determine whether Claimant was available for stand-by service on the days in question.

Rule 19 provides that:

"Employees assigned to regular maintenance duties recognize the possibility of emergencies in the operation of the railroad, and will notify the person designated by the Management where they may be called. When such employees desire to leave their home station or section, they will notify the person designated by the Management that they will be absent, about when they will return, and when possible, where they may be found. Unless registered absent, regular assignee will be called."

In accordance with this rule Claimant notified his employer where he could be reached. This rule does not require that the employee remain at his home station on his stand-by days. Since Mr. Williams did not register absent, he did not lay off of his own accord.

In examining the contention that Claimant was too far away from his headquarters to be available for emergency duty and hence this distance was tantamount to laying off, we note that the length of his territory was such that he frequently was more than 90 miles from his job headquarters. Thus he was no less available for his emergency calls when he was away from headquarters on weekends at his home in Springfield than he was when he worked at the extreme limits of his territory. Furthermore, Rule 19 does not restrict an employee as to any specified distance. Since Claimant did not lay off on his stand-by days, he was entitled to his monthly salary under Rule 62.

With reference to Award No. 13121 which Carrier cites to support its position, we find the rule in that case provides that an employee must hold himself available at his assigned headquarters on his stand-by days. Rule 19 of the instant case makes no such provision and therefore Award No. 13121 is not pertinent.

For the foregoing reasons we hold that the Agreement was violated and claim is 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 of the parties 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 30th day of March 1967.