



Award No. 15522
Docket No. SG-15226

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Thomas J. Kenan, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

**SOUTHERN PACIFIC LINES IN TEXAS AND LOUISIANA
(Texas and New Orleans Railroad Company)**

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Southern Pacific Lines in Texas and Louisiana (Texas and New Orleans Railroad Company) that:

(a) Carrier violated the current Signalmen's Agreement, as amended, particularly Rules 1(b) and 2, when it placed a Leading Signalman instead of a Foreman in charge of Signal Gang No. 5.

(b) Carrier be required to compensate Mr. L. H. Carroll the difference between the amount he would have earned as Foreman and the amount he earned as Leading Signalman beginning September 1, 1963 and continuing as long as Mr. Carroll remains in charge of Signal Gang No. 5 as Leading Signalman.

EMPLOYEES' STATEMENT OF FACTS: As indicated by our Statement of Claim, this dispute is based on Carrier's action of having a Leading Signalman instead of a Foreman in charge of a signal gang.

Attached hereto, as Brotherhood's Exhibit No. 1, is the bulletin on which Carrier advertised the Leading Signalman position with headquarters "Trailer Cars - Signal Gang No. 5." On August 16, 1963, Carrier advised Mr. L. H. Carroll that he was the successful bidder for that position, and that he should report Monday, August 19, 1963.

Under date of August 14, 1963, the Brotherhood's Local Chairman wrote (Brotherhood's Exhibit No. 2) to the Signal Supervisor, asking that he issue bulletin advertising a Foreman position for Signal Gang No. 5. The Signal Supervisor refused to advertise a Foreman position, asserting the Leading Signalman would not have supervision over more than seven men—see Brotherhood's Exhibit No. 3.

In view of Carrier's failure and/or refusal to establish a Foreman position for Signal Gang No. 5, even after the Local Chairman had put Carrier on notice that the establishment of a Leading Signalman position to be in

Rule 2. Leading Signalman, Leading Signal Maintainer. A signalman, or signal maintainer, working with and supervising the work of a group of employes in a gang shall be classified as a leading signalman or leading signal maintainer. At no time shall a leading signalman or leading signal maintainer have supervision over more than seven men."

Claimant worked as Leading Signalman on Signal Gang No. 5 and had supervision of one signalman and three signal helpers, a total of four men during first period September, 1963, date on which claim commenced, and at no time during the period September 1, 1963 to June 9, 1964, did claimant have supervision of more than seven men. On June 9, 1964, the size of the gang was increased to more than seven men and claimant was made foreman of the gang, as per Rule 1 (b) of the current agreement. Time rolls for first period September, 1963, and first period June, 1964, showing rates and number of men in gang are attached as Carrier's Exhibits B and C.

(Exhibits not reproduced.)

OPINION OF BOARD: The Employes contend the Carrier violated Rules 1 (b) and 2 of the Signalmen's Agreement when a Leading Signalman, rather than a Foreman, was placed in charge of Signal Gang No. 5. Their claim is for the difference in earnings between the amount Mr. L. H. Carroll earned as Leading Signalman and the amount he would have earned had he been assigned as Foreman of Signal Gang No. 5, beginning September 1, 1963, and continuing as long as Mr. Carroll remains in charge of Signal Gang No. 5 as Leading Signalman.

The Carrier contends that when an employe has supervision of "not more than seven men" it is proper and within the meaning of the Agreement to classify and pay such employe as a Leading Signalman.

The pertinent rules of the current agreement are:

"CLASSIFICATION

Rule 1. * * * * *

(b) Foreman. An employe who is assigned to the duties of supervising the work of a gang of other employes shall be classified as a foreman.

Rule 2. Leading Signalman, Leading Signal Maintainer. A signalman, or signal maintainer, working with and supervising the work of a group of employes in a gang shall be classified as a leading signalman or leading signal maintainer. At no time shall a leading signalman or leading signal maintainer have supervision over more than seven men."

The Board finds the above rules to be clear and unambiguous; the context in which the parties thereto have used the term "a group of employes in a gang" clearly requires the use of a Foreman to supervise an entire gang per Rule 1 (b), even when such supervision is over not more than seven men.

We distinguish Award No. 10737, and find that this claim must 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 21st day of April 1967.