

Award No. 16277
Docket No. SG-16769

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Arnold Zack, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

CHICAGO, ROCK ISLAND & PACIFIC RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Chicago, Rock Island and Pacific Railroad Company:

On behalf of Signal Maintainer L. D. Rees — whose headquarters is Bucklin, Kansas, and whose rate of pay is \$2.9288 per hour — for two (2) hours' pay at the punitive rate account violation of Rules 5, 14, and 15 of the Signalmen's Agreement when he was required to perform work at Fowler, Kansas, which is off his assigned territory, on October 27, 1965, from 10:00 A. M. until 12:00 Noon. This to be paid in addition to what he has already been paid for that day. (Carrier's File: L-130-352)

EMPLOYES' STATEMENT OF FACTS: Claimant L. D. Rees is the regularly assigned Signal Maintainer on the Bucklin, Kansas, signal maintenance territory.

Mr. C. D. Gutshall, the regularly assigned Signal Maintainer on the Meade, Kansas, signal maintenance territory, was on vacation on the claim date. Carrier did not furnish a vacation relief maintainer during his vacation; instead, when the services of a Signal Maintainer were required on the Meade territory during the vacation period, Carrier called on Mr. Rees to perform such services.

Mr. Rees was used on the Meade territory on October 18, 19, 20 and 27, 1965. He was used on the 18th because a light was out; on the 19th because power wires were crossed; on the 20th to replace a pole; and on the 27th to bond rail. Carrier paid him the punitive rate of pay for the 18th, 19th and 20th, but has not paid him for the 27th. Carrier's refusal to pay him for the 27th is the basis for the instant claim.

Mr. Rees worked on the Meade territory from 10:00 A. M. until Noon on the 27th. He submitted an overtime report for two hours' overtime pay account working off his territory. Carrier returned that overtime report.

Signed at Chicago, Illinois this 14th day of December, 1961.

FOR THE BROTHERHOOD
OF RAILROAD SIGNALMEN
OF AMERICA:

/s/ R. A. Watkins
General Chairman, BofRS

/s/ C. S. Chandler
Vice President, BofRS

FOR THE CHICAGO, ROCK
ISLAND AND PACIFIC
RAILROAD COMPANY:

/s/ G. E. Mallery"

3. On October 27, 1965, claimant, Signal Maintainer L. D. Rees, headquarters at Bucklin, Kansas, was used to perform signal work at Fowler, Kansas, which is off of his assigned territory. The signal maintainer on whose territory Fowler lies was on his regularly assigned vacation at the time in dispute. Claimant was off his assigned territory for two hours for which he claimed two hours at punitive rate account being used off his assigned territory.

4. To avoid burdening the record, Carrier has not included copies of the correspondence on the property concerning this claim, as it is anticipated the Employees will produce such correspondence as a part of their submission. However, Carrier will refer to various portions of this correspondence, as necessary, and will reproduce pertinent portions of same when appropriate. Carrier will also take exception in its rebuttal statement to any errors or omissions in the Employees' reproduction of such correspondence.

5. The grievance procedures followed and progression of the instant dispute were timely and in accordance with the applicable rules in effect on this property and the Railway Labor Act, as amended.

OPINION OF BOARD: On October 27, Claimant L. D. Rees, regularly assigned Signal Maintainer on the Bucklin, Kansas territory was used on the Meade territory from 10:00 A.M. until Noon during the vacation of C. D. Gutshall. He filed the instant claim for overtime on the basis of alleged violation of Rules 5, 14 and 15, and on the theory that similar claims had in fact been paid by the Carrier on the property.

The Carrier denied the claim on the grounds that the parties' December 14, 1961 Memorandum of Agreement and Articles 6 and 10b of the National Vacation Agreement preclude overtime payment for work of this type.

This Board has considered the issue raised in this case in an earlier award by Referee Kenan (Award 15671):

"Nothing in the Agreement, including its Rules 5, 14 and 15, prohibits the Carrier from assigning a signal maintainer to work outside his assigned territory. Any ambiguities in this respect are dispelled by the parties' Memorandum of Agreement dated December 14, 1961. Such memorandum not only governs when such assignments do and do not result in additional one-half time pay; it also specifically endorses Articles 6 and 10 of the National Vacation Agreement."

In that award Referee Kenan also stated:

"Article 10(b) contemplates that up to 25% of a vacationing employee's work can be distributed among fellow employees without

the hiring of a relief worker, provided this does not burden such fellow employes and thereby violate Article 6."

There is no showing in this case that Rees performed in excess of 25% of the workload of Gutshall, or that the work he did perform was sufficiently burdensome to invoke Article 6. We must therefore conclude that the claim lacks merit.

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 Employes involved in this dispute are respectively Carrier and Employes 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 not violated by the Carrier.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 2nd day of May 1968.