



Award No. 16598

Docket No. SG-17256

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

John J. McGovern, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

CHICAGO AND NORTH WESTERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood of Railroad Signalmen on the Chicago and North Western Railway Company that:

(a) Carrier violated the current Signalmen's Agreement, particularly Rule 16(a), when it did not call Mr. T. C. Malin, Signal Maintainer, Madison, Wisconsin, Northwestern Seniority District, on August 16, 1966, to repair crossing signal at Dempsey Road, Madison, Wisconsin.

(b) Carrier now be required to compensate Mr. Malin for three (3) hours and thirty (30) minutes at his time and one-half rate, which was the amount of time claimed by the employee who performed the work.

[Carrier's File: 79-9-47]

EMPLOYEES' STATEMENT OF FACTS: The Claimant in this dispute is Signal Maintainer T. C. Malin, one of three signal maintenance employees headquartered at Madison, Wisconsin. The other two are Leading Signal Maintainer H. S. Gerth and Signal Maintainer N. R. McMicken.

On August 16, 1966, while Leading Signal Maintainer Gerth was on vacation (thus leaving Signal Maintainers McMicken and Malin subject to call on the Madison territory), a crossing signal was damaged at Dempsey Road in Madison, the damage having been reported shortly after Messrs. McMicken and Malin had completed their tour of duty and departed for home.

Carrier then sent Leading Signaller B. D. Waite to repair the damage, and he in turn called Mr. McMicken. Carrier made no attempt to call Mr. Malin.

In view of the fact no attempt was made to call Mr. Malin, the regular assignee on the Madison maintenance territory, he submitted an overtime slip (Form 1171) for three and one-half (3½) hours' overtime pay (\$4.4532 per hour). Carrier's denial of the overtime slip is Brotherhood's Exhibit No. 1. Subsequent handling of the claim on the property is shown in Brotherhood's Exhibits Nos. 2, 3, 4, 5, 6, 7 and 8, attached hereto. As indicated thereby, this

able to contact was Leading Signalman Waite. When he reached the scene of the trouble, he determined that the assistance of one more man was needed and he contacted Signal Maintainer McMicken, who reported for duty and assisted in performing the necessary work. Both of the signalmen who performed this work held seniority on the Northwestern District, both were assigned to perform work in the territory involved, and both were available under Rule 16 for such emergency work. It will be noted that the "Characteristic Notice" for both of these men indicated the "person designated by the management" whom they were required to keep informed concerning their location in case needed in emergency outside regularly assigned hours. The employees have never at any time protested the designation of Leading Signalman Waite's position as being covered by Rule 16.

Claim is presented for 3 hours 30 minutes at time and one-half rate, which was the time claimed by Leading Signalman Waite for the performance of this work. The claim has been denied.

(Exhibits not reproduced.)

OPINION OF BOARD: At Madison, Wisconsin, there are three positions in the Signal Maintenance field, one being classified at a Leading Signal Maintainer and the other two as Signal Maintainers. The Claimant in this dispute is one of the latter classifications.

While the Leading Signal Maintainer was on vacation, a crossing signal was damaged in Madison. This occurred shortly after the two Maintainers had completed their daily work and departed for home. Carrier called a Leading Signalman to repair the damage. He, in turn called the other Signal Maintainer. No attempt was made to call the Claimant, since Carrier assumed that inasmuch as he lived approximately twenty miles away, he would not yet have arrived at his home. Claimant alleges a violation of Rule 16(a) of the Agreement and demands compensation for three and a half hours at the overtime rate. The Rule invoked reads:

"RULE 16. SUBJECT TO CALL

(a) Employees assigned to regular maintenance duties recognized the possibility of emergencies in the operation of the railway, 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." (Emphasis ours.)

There is a distinction in the Agreement between the position of Leading Signalman and Leading Signal Maintainer, as well as between Signalman and Signal Maintainers. Basically, a Leading Signalman is one by definition, who is assigned to work with, and direct the work of seven or less signalmen, or other employees coming within the scope of the Agreement, and **not assigned to the maintenance of a certain section, shop, or plant.** On the contrary Leading Signal Maintainers are by definition assigned to a certain section, shop, or plant. A Signal Maintainer, such as Claimant, is so classified by definition when he is assigned to the maintenance of a certain section, shop or plant as distinguished from an employee assigned to a gang or crew, who in consequence thereof, is classified as a Signalman.

The Organization is quick to emphasize that, although the Leading Signalman in this case was assigned to regular maintenance duties, he was pursuing these duties over a territory as distinguished from a section. This is consonant with his classification as a Leading Signalman. The work involved in this instant occurred on a certain, specified section and hence constituted work within the province of the job classification of Maintainer.

Further, in Brotherhood's Exhibit No. 9, Captioned "Characteristic Notice of Permanent Positions," we note that the duties of the Leading Signalman at Madison are "Assisting regular maintainers in maintenance and construction of signal apparatus." If he thus is assisting Maintainers, he can scarcely be called the regular assignee for the work involved, the individual who, pursuant to the provisions of Rule 16(a) should have been called. There is no evidence in this record that Claimant registered absent, in view of which we will accordingly sustain the claim.

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 Employee involved in this dispute are respectively Carrier and Employee 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 27th day of September 1968.