

NATIONAL RAILROAD ADJUSTMENT BOARD**THIRD DIVISION****(Supplemental)**

Robert A. Franden, Referee

PARTIES TO DISPUTE:**BROTHERHOOD OF RAILROAD SIGNALMEN****CHICAGO, ROCK ISLAND AND 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 J. C. Armer, Lonoke, Arkansas, for sixty (60) hours account used off his territory on various dates from August 2 through August 20, 1965, while the Signal Maintainer at Little Rock, Arkansas, was on his assigned vacation.

(Carrier's File: L-130-357. General Chairman's File: VA-25-23)

EMPLOYEES' STATEMENT OF FACTS: Claimant J. C. Armer is a Signal Maintainer with headquarters at Lonoke, Arkansas.

Guy Jameson is a Signal Maintainer with headquarters at Little Rock, Arkansas.

Mr. Jameson was on a three-week vacation from August 2 to 20, 1965. During that time, Carrier did not provide a vacation relief man to work the territory. Instead, Carrier required Mr. Armer to suspend work on his own assignment during regular hours in order to work a total of thirty-six hours on Jameson's territory. In addition, Armer also worked a total of fourteen and five-twelfths hours overtime on Jameson's territory during this vacation period. Following is a detailed list of the hours involved:

Date	Straight Time	Overtime
3	8	
4	5	2 8/12
5	8	
6	8	
10	4	
12		4 9/12
15		3 6/12
16	3	3 6/12
Total	36	14 5/12

OPINION OF BOARD: There is a dispute in this case as to the amount of time the Claimant was assigned to the Vacationer's territory. The Organization alleges that 36 hours of straight time and 14-5/12 hours of overtime is the correct amount. The carrier alleges that 25 hours straight time plus 14-5/12 hours overtime is correct. The burden of proof is on the moving party (Claimant). All Claimant has submitted in support of his allegations as to the time spent by him on the Vacationer's territory is an affidavit to the effect that his allegations are true and correct. This is merely a self-serving statement which does not sustain the burden.

Having found that the number of hours upon which the claim must be denied or sustained is 25 hours straight time plus 14-5/12 hours overtime (the time admitted by the carrier), we must determine whether it is proper to include overtime in determining whether the total hours worked on the Vacationer's territory exceeded the 25 percent burden provisions of Article 10(b) of the National Vacation Agreement.

The Board finds that overtime is properly included as part of the work load of the vacationer. If vacationer had been at his post or relief had been assigned the overtime work would have been done as part of the normal daily work load. This is consistent with the rulings of this Board, Award 14668 (Devine) and Award 15061 (Ives).

This reasoning does not apply, however, to overtime work occasioned by an emergency. This work would not have been done as part of the normal daily work load and, in the opinion of this Board, is not within the meaning of "work load" as used in Article 10(b) of the National Vacation Agreement, Award 14668 (Devine).

Applying the above reasoning to the case at bar, of the 14-5/12 hours overtime 10-11/12 must be removed from consideration in determining whether the time spent by the Claimant on Vacationer's territory violated the Vacation Agreement. This leaves 25 hours straight time and 3½ hours overtime for a total of 28½ hours spent by Claimant on Vacationer's territory. Said amount does not exceed 25 per cent of the work load of the Vacationer.

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 has not been violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **THIRD DIVISION**

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 24th day of January 1969.

Keenan Printing Co., Chicago, Ill.

Printed in U.S.A.