

Award No. 17001

Docket No. SG-17554

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John J. McGovern, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

KANSAS CITY TERMINAL RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Kansas City Terminal Railway Company that:

(a) Carrier violated the current Signalmen's Agreement, as amended, particularly the so-called 40 Hour Week Agreement Rules, when Mr. F. L. Carver, who was working the Leading Maintainer position at T No. 8 the week of December 12 to 16, 1966, was denied forty (40) hours of work even though he was available for such work on both Monday and Saturday of that week. He was permitted to work only four days, December 13 to 16, inclusive.

(b) Mr. F. L. Carver be paid eight (8) hours at the rate of \$3.0648 because of this violation.

[Carrier's File: SG-2.67-50.]

EMPLOYES' STATEMENT OF FACTS: Claimant F. L. Carver was a regularly assigned Leading Signalman on a Signal Construction Gang. His regular assignment was Monday through Friday, Saturday and Sunday as rest days.

There was a temporary vacancy of Leading Signal Maintainer at Tower No. 8 as a result of the incumbent accepting a temporary vacancy created by an employe taking sick leave.

Claimant was assigned by Carrier to work the temporary vacancy at Tower No. 8, until it was assigned by bulletin to the senior applicant. Claimant did not bid for the temporary vacancy.

The off sick employe subsequently returned to his job, the owner of the leading Signal Maintainer position at Tower No. 8 returned to his job with the result that during the week of December 12 Claimant was allowed to work only 32 hours. Claimant was available for service on Monday, December 12, Saturday, December 17 and Sunday December 18, 1966.

Inasmuch as claimant was not allowed to work 40 hours during the week, and he was caused thereby to lose eight (8) hours' time, claim was made in his behalf. The claim is for eight (8) hours' pro rata rate of the position of leading Signal Maintainer.

December 14 inclusive, taking the rest days of that position. He returned to the construction force when the regular maintainer at Tower 8 returned to work.

Under these circumstances, there is no basis for claim and it is denied."

OPINION OF BOARD: Claimant was a regularly assigned Leading Signalman on a Signal Construction gang with a regular assignment Monday through Friday, Saturday and Sunday as rest days.

A temporary vacancy of Leading Signal Maintainer at Tower No. 8 was created as a result of the incumbent accepting a temporary vacancy created by an employee on sick leave. Claimant was assigned by the Carrier to work this temporary vacancy until it was assigned by bulletin to the senior applicant. Claimant never submitted a bid for this vacancy.

The original off-sick employee returned to his job and the regular incumbent of the position at Tower No. 8 returned to his job with the result that during the week of December 12, Claimant was allowed to work only 32 hours. Since he was not allowed to work 40 hours that week, a claim is now before us for eight (8) hours at the pro rata rate of the position of Leading Signal Maintainer.

Claimant in this dispute, despite the protestation of the Carrier, did not exercise his seniority rights when he assumed the position at Tower No. 8. Carrier unilaterally assigned him to this position. There is nothing by way of explanation in this record to indicate why Carrier did not return him to his regular assignment on the day in question. He clearly lost a day's pay through no fault of his own. We will 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 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 25th day of March 1969.

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