



Award No. 17113
Docket No. SG-17677

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION
(Supplemental)

Paul C. Dugan, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN
CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC
RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Chicago, Milwaukee, St. Paul and Pacific Railroad Company that:

- (a) Carrier violated the current Signalmen's Agreement, as amended, particularly Rule 10, item 7, when from July 27, 1966, through August 5, 1966, it require Signal Maintainer L. K. West to work ten (10) consecutive days at the straight-time rate without rest days.
- (b) Carrier be required now to pay Signal Maintainer West at his time and one-half rate for eight (8) hours August 1, 1966, and eight (8) hours August 2, 1966, which were the 6th and 7th days he worked.

(Carrier's File: F-1048-A)

EMPLOYEES' STATEMENT OF FACTS: Claimant L. K. West is a Signal Maintainer on a position which was bulletined to work, "General Maintenance and relieving as assigned by Supervisor", with rest days, "Dependent upon relief assignments".

The claim arises because the Supervisor required Signal Maintainer West to work consecutively, without rest days, ten (10) days—July 27 to August 5, 1966—for which he was paid only the straight time rate.

During the first five of those days, Mr. West worked 2:00 P.M. to 10:00 P.M. at Tower A-2, and on the other five he worked 6:00 A.M. to 3:00 P.M. at Bensenville Hump Yard.

On a **GENERAL TIME AND DISTRIBUTION RECORD, FORM PR.1**, the Maintainer claimed pay at the overtime rate for having worked August 1 and 2; however, Carrier refused to allow such punitive payment and paid him instead at the straight time rate for work on the sixth and seventh days.

Formal claim was initiated on September 19, 1966, by Local Chairman L. T. Davies, who cited as the basis for such claim Rule 10 of the Agreement. Carrier in denying the claim relied on Rule 13, alleging that Claim-

Tuesday	July 19, 1966	Rest Day
Wednesday	July 20, 1966	Signal Maintainer-Tower A-2
Thursday	July 21, 1966	Signal Maintainer-Tower A2
Friday	July 22, 1966	Signal Maintainer-Tower A-2
Saturday	July 23, 1966	Signal Maintainer-Tower A-2
Sunday	July 24, 1966	Signal Maintainer-Tower A-2
Monday	July 25, 1966	Rest Day
Tuesday	July 26, 1966	Rest Day
Wednesday	July 27, 1966	Signal Maintainer-Tower A-2
Thursday	July 28, 1966	Signal Maintainer-Tower A-2
Friday	July 29, 1966	Signal Maintainer-Tower A-2
Saturday	July 30, 1966	Signal Maintainer-Tower A-2
Sunday	July 31, 1966	Signal Maintainer-Tower A-2
Monday	August 1, 1966	Leading Signalman-Bensenville
Tuesday	August 2, 1966	Leading Signalman-Bensenville
Wednesday	August 3, 1966	Leading Signalman-Bensenville
Thursday	August 4, 1966	Leading Signalman-Bensenville
Friday	August 5, 1966	Leading Signalman-Bensenville
Saturday	August 6, 1966	Rest Day
Sunday	August 7, 1966	Rest Day
Monday	August 8, 1966	Leading Signalman-Bensenville
Tuesday	August 9, 1966	Leading Signalman-Bensenville
Wednesday	August 10, 1966	Leading Signalman-Bensenville
Thursday	August 11, 1966	Leading Signalman-Bensenville
Friday	August 12, 1966	Leading Signalman-Bensenville

Rule 13(e) of the currently effective schedule agreement between the parties here in dispute reads as follows:

"Employees worked more than five days in a work week shall be paid one and one-half times the basic straight time rate for work on the sixth and seventh days of their work weeks, except where such work is performed by an employee due to moving from one assignment to another or to or from an extra or furloughed list, or where days off are being accumulated under paragraph (g) of Rule 10. This rule does not apply to monthly rated employees." (Emphasis ours)

In accordance with the specific provisions of aforementioned Rule 13(e), claimant West received the straight time rate of pay for the service he performed on the claim dates of the instant claim, i.e., August 1 and 2, 1966, and properly so, because such work was performed due to his moving from one assignment (Signal Maintainer position at Tower A-2) to another (Leading Signalman position at Bensenville Hump Yard).

There is attached hereto as Carrier's Exhibit "B" copy of letter written by Mr. S. W. Amour, Vice President-Labor Relations, to Mr. D. E. Twitchell, General Chairman, under date of April 4, 1967.

(Exhibits not reproduced.)

OPINION OF BOARD: The issue herein is whether or not Carrier violated Rules 10 and 13 of the Agreement when Claimant worked ten consecutive work days from July 27, 1966 through August 5, 1966 at straight time rate of pay, without being allowed any rest days during said period.

The Organization contends that Section (g), Item (7) of Rule 10 and Rule 13 authorize overtime rates on the 6th and 7th days that Claimant was required to work during the period in question.

The Carrier's position is that Rule 13 (e) is the controlling rule and the exception contained therein precludes overtime pay on the 6th and 7th days when, as here, Claimant was moved from one assignment to another; that Claimant did not have any assigned headquarters, or assigned to rest days and worked whenever directed by his supervisor; that the instant claim was never discussed on the property as required by Railway Labor Act and therefore the claim should be dismissed.

First, in regard to the issue as to whether this claim was discussed in conference on the property, the Organization in its rebuttal, refers to Exhibit No. 10 in Docket No. SG-17060, in support of its position that a conference was held on the property in regard to this particular claim. However, the conference referred to in said exhibit was held in regard to a different claim of this same Claimant involving among other rules the same rule No. 13(e) as in this dispute. It is thus clearly seen that a conference was not held on the property at any time in regard to this particular claim pending herein. Therefore, in line with a long series of Awards of this Board holding that it is mandatory, unless waived by both parties, that a conference be held on the property to discuss the claim, and there being no waiver herein by either party, we are compelled to dismiss this claim for lack of jurisdiction.

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.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: S. H. Shultz
Executive Secretary

Dated at Chicago, Illinois, this 2nd day of May 1969.