



Award No. 17146

Docket No. SG-17628

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Arthur W. Devine, 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 Signalman Roger C. Wagner for the difference in pay between that of Signalman—\$3.1802 per hour for actual time worked—and Signal Foreman—\$688.70 per month based on 211-2/3 hours—for the following days:

January 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 16, 17, 18, 19, 20, 21, 23, 24, 25, 26, 27, 28, 30, 31, and February 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 1967, all dates inclusive, account violation of the Seniority Rules of the Signalmen's Agreement, past practice and long standing custom insofar as an employee junior to Mr. Wagner as a Signalman was assigned to fill the vacancy which was created by Mr. Tom A. Johnson's taking a vacation on January 2 and resigning on January 16, 1967. (Carrier's File: L-130-395)

EMPLOYEES' STATEMENT OF FACTS: Claimant R. C. Wagner was the Senior Signalman working on Signal Gang No. 2, between January 2, and February 18, 1967, the inclusive dates of the instant claim.

Foreman of Signal Gang No. 2, Tom A. Johnson began his vacation on January 2, and resigned from the service of the railroad effective January 16, 1967. The position of Foreman in the gang was bulletined and assignment was effective February 23, 1967.

On January 2, when Foreman Johnson began his vacation, Carrier assigned M. M. Ryles, the junior Signalman in the Gang to work the Foreman's vacancy. Mr. Ryles continued on the vacancy through February 18, 1967.

Claimant, who was the senior Signalman in Gang No. 2, was working Gang No. 2 on January 2 and worked in the Gang each day of the vacancy. Because of the provisions of the seniority rules of the Agreement and/or the provisions of Article 12 (b) of the Vacation Agreement, and because the past practice and custom on the Rock Island Railroad was to assign the senior Signalman in a Gang to fill any vacancy created by the absence of the Foreman, claim was filed on behalf of the senior Signalman for the

6. To avoid burdening the record, Carrier has not included copies of the correspondence presented on the property concerning this claim as it is anticipated the Brotherhood will produce such correspondence as a part of its 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 Brotherhood's reproduction of such correspondence.

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

OPINION OF BOARD: The foreman of Carrier's Signal Gang No. 2, T. A. Johnson, commenced his vacation on January 2, 1967, and later resigned from service on January 16, 1967. The vacancy created by the foreman's resignation was bulletined as a permanent vacancy on January 20, 1967, and assigned to N. W. Nye on February 5, 1967. Nye commenced filling the foreman position on February 23, 1967.

During the period from January 2 through February 18, 1967, the Carrier used M. M. Ryles, a signalman assigned to Gang No. 2, as foreman. The Organization stated that the gang was on "time off February 20 to February 22 (Holiday) inclusive."

The claim is that Claimant, Roger C. Wagner, should have been used as foreman of Gang No. 2 instead of M. M. Ryles because of the Claimant being senior to Ryles, his seniority date being January 5, 1966, whereas Ryles' seniority date is November 5, 1966.

Carrier asserts that it used signalman Ryles as foreman for two reasons, the first being that he had more experience than Claimant and had worked longer on signal construction. The second reason advanced by the Carrier for not using Claimant was that prior to February 6, 1967, Claimant was allowed to work on Signal Gang No. 2, at his own request, as an unassigned employee due to his physical condition and being under a doctor's care.

In its submission the Petitioner has cited Article 12(b) of the National Vacation Agreement in support of its claim in behalf of Claimant for that period of time that former foreman Johnson of Gang No. 2 was on vacation. That Article provides:

"(b) As employees exercising their vacation privileges will be compensated under this agreement during their absence on vacation, retaining their other rights as if they had remained at work, such absences from duty will not constitute 'vacancies' in their positions under any agreement. When the position of a vacationing employee is to be filled and regular relief employee is not utilized, effort will be made to observe the principle of seniority."

This Board has held in prior Awards involving Article 12(b) of the Vacation Agreement that the Carrier has substantial latitude in applying the principle of seniority. See, for example, Awards 8128, 10319, 12853. We find that Article 12(b) does not support the claim herein in behalf of Claimant for that period of time that the former foreman (Johnson) was on vacation.