



Award No. 17246

Docket No. SG-17610

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

John B. Criswell, Referee

**PARTIES TO DISPUTE:**

**BROTHERHOOD OF RAILROAD SIGNALMEN**

**ERIE LACKAWANNA RAILWAY COMPANY**

**STATEMENT OF CLAIM:** Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Erie Lackawanna Railroad Company that:

- (a) Carrier violated the current Signalmen's Agreement, particularly Rules 4, 5, 6, 19, 20, 21, 22, 28, 31, 32, 38, 51, 52, 56, 57, and 71 when on April 19, 20, 21, 22, and 25, 1966, it assigned Signal Helper M. Gallino to perform Signalmen's work on Section #1 at Kent, Ohio, during which time there were four-year Assistants and reduced Signalmen working as Assistant Signalmen.
- (b) Carrier be required now to compensate Mr. J. R. Downs, as a result of these violations, as follows:

April 19, 1966 3 hours at time and one-half—8 hours straight time  
April 20, 1966 3 hours at time and one-half—8 hours straight time  
April 21, 1966 3 hours at time and one-half—8 hours straight time  
April 22, 1966 5 hours at time and one-half—8 hours straight time  
April 25, 1966 4 hours at time and one-half—8 hours straight time

(Carrier's file: 231.6-143.)

**EMPLOYEES' STATEMENT OF FACTS:** Beginning April 19, 1966, Carrier undertook a large track improvement program on its Kent, Ohio Section. Additional employees in the Signalman, Signal Maintainer classification being required to handle associated signal work, Signal Helper M. Gallino, whose regular assignment was that of Helper assigned to Maintainer E. C. Giet of the Kent Section, was stepped up to acting temporary Signal Maintainer, to fill the requirement, suspending the work of his regular assignment. Signal Helper Gallino was required to work in the temporary capacity through April 25, 1966, a total of five (5) working days.

Since qualified employees senior to Signal Helper Gallino were available to perform the work involved in this dispute, and since large track programs are programmed in advance of their initiation (Brotherhood's Exhibit No. 8), the Brotherhood's Local Chairman filed a claim on behalf of Relief Maintainer J. R. Downs for pay for the time Helper Gallino was improperly stepped up.

Rule No. 6 was not violated as you claim due to the man being in the position of temporary Maintainer.

You also state Rule No. 30 was violated as several men were working in the Ass't Class who were Maintainers or Signalmen. A check of the Time Sheets fails to bring even one (1) so called demoted Signalman to light.

Mr. Downs on the dates in question was working as Relief Maintainer in Gang #26 for this period of time and has no claim.

Claim has no basis and is denied.

/s/ E. J. Gaughan  
Signal Supervisor"

and subsequently handled on appeal up to and including Carrier's highest officer designated to handle such matters who denied same on December 13, 1966. The claim was thereafter discussed in conference on March 3, 1967 and as the Organization presented no additional facts or documentary evidence that a violation of agreement existed as alleged, denial was reaffirmed and confirmed by letter dated April 24, 1967.

Attached as Carrier's Exhibits C through J are copies of the pertinent correspondence between the parties of handling the case on the property.

(Exhibits not reproduced)

**OPINION OF BOARD:** Without passing, in any manner, on the propriety of Carrier's action in temporarily upgrading a Signal Helper under the rules and circumstances existing in this dispute, we find that the Claim must be dismissed because the Organization has failed to show that there were any four-year Assistants or any reduced Signalmen working as Assistant. The Claimant was not such an employee.

**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 claim must be dismissed because of failure of the Organization to present evidence to support the premise on which the claim was advanced.

#### A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST: S. H. Schulty  
Executive Secretary

Dated at Chicago, Illinois, this 27th day of June 1969.

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