



Award Number 17324

Docket Number SG-17959

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Arthur W. Devine, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

PENN CENTRAL COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Penn Central Company (Former Pennsylvania Railroad Company) that:

- (a) The Company has violated and is continuing to violate the Agreement, especially, Article 5, Section 1(a), (b), (c), (d) and (e) as amended June 1, 1962, and others, when in a letter dated October 27, 1966 it issued orders requiring the following named employees in the "foreman class", A. V. Rager, A. F. Rawski, H. A. Dapper, J. A. Kosar, V. T. Caulkins, J. S. O'Lear and V. P. Spiri to hold themselves available at all times after their regular tour of duty and assignments for emergency duty.
- (b) The seven (7) named employees of the "foreman class", set forth in claim (a) above, be paid sixteen (16) hours at the time and one-half rate of their respective positions for Mondays to Fridays inclusive; and that they be paid twenty-four (24) hours at the time and one-half rate of their respective positions for Saturdays and Sundays, account of the requirements contained in the letter and the violations mentioned in Claim (a) above, from October 28, 1966 and until corrected. (Carrier's File: System Docket No. 580—Pittsburgh Division Case No. BRS-157)

EMPLOYEES' STATEMENT OF FACTS: On October 27, 1966, Carrier issued written instructions to Inspectors and Foremen under the jurisdiction of Communication & Signal Supervisor R. C. Ryberg that they were required to be available for calls. They were instructed to arrange compliance and advise either the Supervisor or Assistant Supervisor C. & S. where they could be contacted when away from home after regular working hours. The notice signed by Mr. Rybert is Brotherhood's Exhibit No. 1.

Inasmuch as the controlling Agreement contains no "Subject-to-Call" rule and there is no requirements for the employees to provide stand-by service without being paid additional compensation for such service, a claim was entered by Local Chairman D. Murphy on behalf of the seven (7) employees in the so-called "Foreman Class", who were directly affected by the directive and to whom the notice had been addressed. The claim is Brotherhood's Exhibit No. 2 and was dated November 11, 1966.

Please arrange, advising this office or your Assistant Supervisor where you may be contacted when away from your home after regular working hours, for any lengthy period of time."

In his letter of November 21, 1966, the Supervisor, C.&S. rescinded the instructions contained in his notice of October 27th.

Each of the named Claimants is regularly assigned either as a Foreman, C.&S. or as an Inspector, C.&S. on the Pittsburgh Division.

By letter dated November 11, 1966, the Local Chairman, Brotherhood of Railroad Signalmen, presented a claim identical to that outlined above in the Employes' Statement of Claim to the Supervisor, C.&S. The Supervisor denied the claim on November 21, 1966.

The claim was handled thereafter in accordance with the normal grievance procedure to the Manager, Labor Relations (now Director, Labor Relations), the highest officer of the Carrier designated to handle disputes. In progressing the claim, the parties prepared a Joint Submission, a copy of which is attached as Exhibit "1".

The General Chairman presented the claim to the Manager, Labor Relations at their meeting on October 24, 1967. The Manager denied the claim by letter of December 18, 1967, a copy of which is attached as Exhibit "2".

Therefore, so far as the Carrier is able to anticipate the basis of this claim, the questions to be decided by your Honorable Board are whether Carrier violated the Rules Agreement and whether the Claimants are entitled to the compensation claimed.

(Exhibits not reproduced)

OPINION OF BOARD: On October 27, 1966, the Carrier's (former Pennsylvania Railroad Company) Supervisor, Communications and Signals, Pittsburgh Division, issued the following notice to Foremen, C. & S. and Inspectors, C. & S.:

"Inspectors C. & S. and Foremen C. & S. are supervision and are required to be available for emergency calls.

"Please arrange, advising this office or your Assistant Supervisor where you may be contacted when away from your home after regular working hours, for any lengthy period of time."

The instructions were later rescinded on November 21, 1966.

Article 5, Section 1, paragraphs (a) through (e) of the applicable Agreement, reads:

"It is agreed that Article 5, Section 1 of the Schedule Agreement shall be amended in certain respects and that effective June 1, 1962, shall read as follows:

"(a) (Effective June 1, 1962) Inspectors, assistant inspectors, foremen and assistant foremen shall be paid monthly rates of pay based on 174 hours per month. Their straight time hourly rate will be determined by dividing the monthly rate by 174.

"(b) (Effective June 1, 1962) The normal hours of the assignment of the inspectors, assistant inspectors, foremen and assistant foremen shall be 8 hours per day, 5 days per week. They shall be assigned two consecutive rest days each week, one of which shall be Sunday, if possible. The present practice of allowing employees of these classes to be off duty on the seven (7) designated holidays shall be continued.

"(c) (Effective June 1, 1962) When inspectors, assistant inspectors, foremen or assistant foremen are required to perform service on the rest days of their assignment, they will be compensated for such time on the actual minute basis, with a minimum of two hours and forty minutes, at the rate of one and one-half times the straight time hourly rate of pay.

"(d) (Effective June 1, 1962) When inspectors, assistant inspectors, foremen or assistant foremen are required to perform service outside of and continuous with the hours of their regular assignment, on other than rest days, they will be compensated for such time worked on the minute basis at the rate of one and one-half times the straight time hourly rate of pay.

"(e) (Effective June 1, 1962) When inspectors, assistant inspectors, foremen or assistant foremen are notified or called to perform service outside of and not continuous with the regularly assigned working hours they shall report for duty with reasonable promptness and shall be paid a minimum of two hours and forty minutes at the rate of time and one-half. If held on duty longer than two hours and forty minutes, they shall be paid at the rate of time and one-half on the actual minute basis.

"The time of employees so notified to report at a designated time to perform service outside of and not continuous with the regularly assigned working hours shall begin at the time required to report and end when released. The time of employees so called to perform such service immediately shall begin at the time called and end when they return to their headquarters."

The Petitioner contends that the instructions issued on October 27, 1966, were in violation of the quoted section of Article 5, in that the instructions required the Claimants to be available for calls and the Carrier refused to pay them for such service.

Article 5 clearly contemplates that employees covered will be used outside their normal hours and provides the method of pay for such service.

We agree with the argument on behalf of Carrier that if the Carrier is required to call Claimants for service outside their normal hours, there is also an obligation on Claimants to be available. The existence of the instructions of October 27, 1966, in itself, did not cause any of the Claimants to perform any service outside of their normal hours. The notice did nothing more than to instruct the Claimants to notify the Supervisor or the Assistant Supervisor of their whereabouts if they anticipated being away from their home for "any lengthy period of time."

There is no justification for the claims in behalf of Claimants for payments the same as if they performed service on the rest days of their assignments or outside their regular hours as set forth in paragraphs (c), (d) and (e) of Section 1, Article 5, of the Agreement. The claim will, therefore, be denied.

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 Employee involved in this dispute are respectively Carrier and Employee 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 not violated.

A W A R D

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 July 1969.