



Award Number 17356

Docket Number SG-17955

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

**Murray M. Rohman, Referee**

**PARTIES TO DISPUTE:**

**BROTHERHOOD OF RAILROAD SIGNALMEN**

**SEABOARD COAST LINE RAILROAD COMPANY**

**STATEMENT OF CLAIM:** Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Seaboard Coast Line Railroad Company:

On behalf of Signal Foreman J. W. Powers for eight (8) hours' overtime pay in addition to any time already paid for in the month of August, 1967. (Carrier's File: 15-45)

**EMPLOYEES' STATEMENT OF FACTS:** On November 3, 1966, the Seaboard Coast Line Railroad Company, the Atlantic Coast Line Railroad Company, and employees of those companies as represented by various Labor Organizations including the Brotherhood of Railroad Signalmen, made an agreement, effective August 1, 1966, providing for job protection and certain other benefits for the employees in the event of merger of the two companies. That agreement commonly referred to as the "Orange Agreement" provides in part the following:

**"Section 1.**

The fundamental scope and purpose of this Agreement is (a) to provide for the protection of defined employees of Seaboard and Coast Line as herein set forth, (b) to expedite the changes in services, facilities and operations involved in such merger, and (c) to prescribe the procedures by which existing agreements between the parties shall be modified and consolidated to conform with the changes in services, facilities and operations involved in such merger."

**"Section 2.**

(b) On the date the said corporate merger of the Coast Line into Seaboard is consummated the Merged Company will take into its employment all employees of Seaboard and Coast Line who were employees on the effective date of this Agreement, or subsequent thereto, up to and including the date the merger is consummated, and who are willing to accept such employment. None of the present employees of either of the said carriers shall be deprived of employment or placed in a worse position with respect to compensation, rules, working conditions, fringe benefits or rights and privileges pertaining thereto at any time during such employment."

outlined in Rule 15-1/2, or the days observed by the men they supervise in lieu thereof, without deduction from their monthly pay. Service performed on assigned rest days shall be paid for under Rule 16, in addition to their monthly pay.

"Except for service on rest days, until a foreman has 184 credited hours of service, exclusive of the 16 hours for making reports, no overtime shall be paid. Service performed by a foreman on his rest days shall not be utilized in computing the 184 hours. Credit toward the 184 hours shall be in accordance with rules as they apply to hourly rated employees on the basis of one minute for each straight time minute, 1.5 minutes for each overtime minute and two minutes for each double time minute for service performed by a foreman. Where a foreman is not relieved for a full day on a holiday or day taken in lieu thereof, he will receive a credit of not less than 12 hours."

**OPINION OF BOARD:** Effective July 1, 1967, the Seaboard Air Line Railroad and the Atlantic Coast Line Railroad merged to form the Seaboard Coast Line Railroad. In anticipation of such merger, an Agreement, including Rule 45, was negotiated with this Organization. Subsequently, said Rule 45, hereinafter quoted, became the focal point of the instant dispute.

**"RULE 45—Rates of Pay (Effective January 1, 1967)**

|                                   |                    |
|-----------------------------------|--------------------|
| Signal Inspector                  | \$683.25 per month |
| Signal Foreman                    | 678.41 per month   |
| Leading Signalman                 | 3.243 per hour     |
| Leading Signal Maintainer         | 3.243 per hour     |
| Signalman-Signal Maintainer       | 3.206 per hour     |
| Assistant Signalman and Assistant |                    |
| Signal Maintainer                 |                    |
| First period 130 days             | 2.765 per hour     |
| Second period 130 days            | 2.790 per hour     |
| Third period 130 days             | 2.815 per hour     |
| Fourth period 130 days            | 2.840 per hour     |
| Fifth period 130 days             | 2.865 per hour     |
| Sixth period 130 days             | 2.891 per hour     |
| Seventh period 130 days           | 2.916 per hour     |
| Eighth period 130 days            | 2.941 per hour     |
| Signal Helper                     | 2.727 per hour     |

The monthly rate for Signal Inspectors is based on 211-1/3 hours per month. For work in excess of 211-2/3 hours in any month, overtime will be paid. A monthly rate of \$678.41 will be paid Signal Foremen, based on 200 hours per month, which shall include 16 hours for making reports. Regular hours of assignment shall be 8 hours per day, 5 days per week, or the assignment of the men they are supervising. They will be allowed two rest days per week, which will be Saturday and Sunday, if possible, and shall be off duty on the holidays outlined in Rule 15 1/2, or the days observed by the men they supervise in lieu thereof, without deduction from their monthly pay. Service performed on assigned rest days shall be paid for under Rule 16, in addition to their monthly pay.

Except for service on rest days, until a foreman has 184 credited hours of service, exclusive of the 16 hours for making re-

ports, no overtime shall be paid. Service performed by a foreman on his rest days shall not be utilized in computing the 184 hours. Credit toward the 184 hours shall be in accordance with rules as they apply to hourly rated employees on the basis of one minute for each straight time minute, 1.5 minutes for each overtime minute and two minutes for each double time minute for service performed by a foreman. Where a foreman is not relieved for a full day on a holiday or day taken in lieu thereof, he will receive a credit of not less than 12 hours."

The facts indicate that Claimant, a monthly rated Signal Foreman, was not paid for the overtime hours performed during the month of August, 1967. When the General Chairman called this oversight to the attention of the Carrier, the inadvertent error was adjusted and the Claimant received pay for 19 hours of overtime. Shortly thereafter, the Organization countered that the Claimant was due an additional 8 hours of overtime pay for the month of August. Thus, the issue before us involves the question whether the Claimant is entitled to an additional 8 hours of overtime pay for the month of August, 1967, pursuant to Rule 45 of the effective Agreement.

The manner in which the Organization determined that the Claimant was entitled to a total of 27 hours overtime pay, instead of 19 hours, is portrayed in its Exhibit No. 7, hereinafter quoted:

| Date       | <u>"Time worked"</u>     |                     | <u>Creditable time</u>                                |                             |                              |
|------------|--------------------------|---------------------|-------------------------------------------------------|-----------------------------|------------------------------|
|            | <u>Straight time hrs</u> | <u>Overtime hrs</u> | <u>Straight time</u>                                  | <u>overtime at 1.5 mins</u> | <u>total creditable time</u> |
| First half | 92                       | 2                   | 92                                                    | 3                           | 95                           |
| 16         | 10                       | 3                   | 10                                                    | 4.5                         | 14.5                         |
| 17         | 10                       | 5                   | 10                                                    | 7.5                         | 17.5                         |
| 18         | 0                        | 0                   | 0                                                     | 0                           | 0                            |
| 19         | 0                        | 0                   | 0                                                     | 0                           | 0                            |
| 20         | 0                        | 0                   | 0                                                     | 0                           | 0                            |
| 21         | 10                       | 6                   | 10                                                    | 9                           | 19                           |
| 22         | 10                       | 0                   | 10                                                    | 0                           | 10                           |
| 23         | 10                       | 0                   | 10                                                    | 0                           | 10                           |
| 24         | 10                       | 0                   | 10                                                    | 0                           | 10                           |
| 25         | 0                        | 0                   | 0                                                     | 0                           | 0                            |
| 26         | 0                        | 0                   | 0                                                     | 0                           | 0                            |
| 27         | 0                        | 0                   | 0                                                     | 0                           | 0                            |
| 28         | 8                        | 0                   | 8                                                     | 0                           | 8                            |
|            |                          |                     | Hours required before overtime                        |                             | 184                          |
| 29         | 8                        | 3                   |                                                       |                             |                              |
| 30         | 8                        | 0                   |                                                       |                             |                              |
| 31         | 8                        | 0                   |                                                       |                             |                              |
|            | 24                       | 3                   | Hours in excess of 184 and payable at overtime rate." |                             |                              |

In our view, the Organization's contention is amply supported by Rule 45. We need only refer to the last paragraph of said Rule for ready ref-

erence. As interpolated by us, it provides that no overtime shall be paid until a foreman has 184 credited hours of service. These number of hours were accumulated at the close of August 28. Furthermore, Rule 45 provides that credit toward the 184 hours shall be in accordance with rules as they apply to hourly rated employees.

Therefore, any hours of work performed after the 184 credited hours of service require that they be compensated at the overtime rate. In this regard, the Record indicates that the Claimant worked 8 hours each day on August 29, 30 and 31, plus 3 hours overtime on August 29, for a total of 27 hours. Thus, it is our considered opinion that the Organization's claim is meritorious.

**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 Employes involved in this dispute are respectively Carrier and Employes 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.

#### A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST: S. H. Schulty  
Executive Secretary

Dated at Chicago, Illinois, this 31st day of July 1969.