



Award Number 17487

Docket Number SG-16238

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

G. Dan Rambo, 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 that:

- (a) Carrier violated the current Signalmen's Agreement, as amended, particularly Rules 5, 14, 15 and the Seniority Rules, when it required Signal Shop employes from Silvis, Illinois, to perform work between Culver and Letts, Iowa, on April 26, 27 and 28, 1965.
- (b) Carrier be required to compensate the following employes for eight (8) hours at punitive rate of pay for each of the three dates listed above, this to be paid in addition to what they have already been paid on those dates:

| | | |
|----------------------------------|-------------------|----------|
| Signal Foreman G. R. Swanson | -Monthly rate | \$641.40 |
| | Basic Hourly rate | 3.0288 |
| Leading Signalman L. R. Goentzel | -Hourly rate | 3.0488 |
| Signalman H. E. Clark | -Hourly rate | 2.9288 |
| Signalman V. A. Drury | -Hourly rate | 2.9888 |
| Signal Helper Jay Pearson | -Hourly rate | 2.5488 |

(Carrier's File: L-130-334. General Chairman's File: AV-346)

EMPLOYEES' STATEMENT OF FACTS: Claimants named in our Statement of Claim are incumbents of positions in the signal shop at Silvis, Illinois. They are confined by bulletin to the shop. On April 26, 27 and 28, 1965, however, Carrier required them to suspend work in the shop during regular working hours in order to perform work in Iowa.

The work in Iowa consisted of raising battery wells and other signal equipment to a higher level in case Mississippi River dikes gave way and flooded the railroad.

Our claim was initiated on the basis Carrier violated the Signalmen's Agreement when it required Claimants to suspend work in the shop in order to work in Iowa.

Carrier's basic argument in denying the claim is that the flood of the Mississippi River constituted an emergency. The record will show that the

U. S. Weather Bureau had issued warnings weeks before the flood about the exact date the river would reach flood stage at various points.

The claim was presented to the Signal Engineer under date of May 28, 1965, subsequently handled in the usual and proper manner on the property, up to and including the highest officer of the Carrier designated to handle such disputes, without receiving a satisfactory settlement. Pertinent exchange of correspondence on the property is attached hereto as Brotherhood's Exhibit Nos. 1 through 7.

There is an agreement in effect between the parties to this dispute, bearing an effective date of July 1, 1952, as amended, which is by reference made a part of the record in this dispute.

(Exhibits Not Reproduced)

CARRIER'S STATEMENT OF FACTS:

1. There is an Agreement in effect between the parties to this dispute bearing an effective date of July 1, 1952, which by this reference is made a part of this submission.
2. Claimants, regularly assigned to Carrier's Signal Repair Shop at Silvis, Illinois, were used between Culver and Letts, Iowa (approximately 35 rail miles from Silvis) on April 26, 27 and 28, 1965, to perform emergency work to protect Carrier's signal system from the rising waters of the Mississippi River during the 1965 Spring Flood along the Mississippi River.
3. The instant claim was filed on May 28, 1965, alleging claimants were improperly used off their regular assignments at the Silvis Signal Repair Shop.
4. To avoid burdening the record, Carrier has not included copies of the correspondence on the property concerning this claim as it is thought the Employees would produce such correspondence as a part of their 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 Employees' reproduction of such correspondence.
5. Carrier's Exhibits "A" and "E" concern an early dispute involving the bulletined assignments claimants were working at the Silvis Signal Repair Shop.

(Exhibits Not Reproduced)

OPINION OF BOARD: Claimants are Signal Shop employees of Carrier at Silvis, Illinois, and were required to perform work outside the shop on Carrier's line between Culver and Letts, Iowa on April 26, 27 and 28, 1965. The work was performed in preparation for flooding of Carrier's line at that point as a result of the 1965 spring flood of the Mississippi River and tributaries in the area.

Carrier offers extensive evidence of flooding, record breaking crests, and successively revised higher estimates of water levels as more rain fell in

the area immediately preceeding the days in question. These are given as proof that the work was emergency work, therefore allowable, even though possibly in violation of the Agreement under calmer circumstances.

The Organization responds that Carrier had considerable advance notice of the flooding through weather advisories, news stories and crest predictions plus the fact that the section in question was not flooded and the signals continued in operation there. It is further urged that since no emergency existed the work was done in violation of Rules 5, 14 and 15 and the Seniority Rules of the Agreement.

Since the parties agree that the issue of emergency is basic, this Board adopts the definition given in Award 4354 (Robertson):

"An emergency has been previously defined in Awards of this Board. It has been said that it is suggestive of a 'sudden occasion; pressing necessity; strait, crisis. It implies a critical situation requiring immediate relief by whatever means at hand.' * * * 'An unforeseen occurrence or condition calling for immediate action; exigency.'"

There is no doubt that the Carrier was warned of a flood as was the rest of the nation, but with the changing, ever more serious proportions which the flood developed as more rain fell in the area there can be no question that a pressing necessity to take all precautionary steps developed. What had not been crisis became one, and though this section of the line was untouched because certain dikes held, their potential failure was a reasonable concern.

Under the circumstances this Board finds that Carrier's acts were done in emergency and the Agreement was not violated.

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 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 26th day of September 1969.

Central Publishing Co., Indianapolis, Ind. 46206

Printed in U.S.A.