

Award No. 17993

Docket No. SG-18361

NATIONAL RAILROAD ADJUSTMENT BOARD**THIRD DIVISION***Francis X. Quinn, 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 Railway Company that:

(a) Carrier violated the current Signalmen's Agreement, as amended, particularly Rule 7, when on September 16, 23 and 30, 1967, the sixth day of the work weeks in each instance, it required Signal Foreman W. Brickman to perform ordinary construction work on a State of New Jersey project at Route 280 in Orange, New Jersey, without allowing overtime for such work.

(b) Carrier be required now to pay Signal Foreman Brickman for all wages lost because of the above violation. (Carrier's File: 158 SIG.)

EMPLOYEES' STATEMENT OF FACTS: Claimant William Brickman is a monthly rated signal foreman with a regular Monday through Friday work week. Sunday is the assigned rest day of Foreman Brickman, with no work to be performed on Saturday, the sixth day of the work week, except in case of emergency.

On Saturday, September 16, 23 and 30, 1967, the foreman was required to perform work without payment of overtime for such work.

A claim for additional compensation for the work performed was filed on the basis of Rule 7(d) of the current Signalmen's Agreement, which reads as follows:

"RULE 7.

(d) Where employees now have a bulletined or assigned rest day, conditions now applicable to such bulletined or assigned rest day shall hereafter apply to the sixth day of the work week. Where employees do not now have a bulletined or assigned rest day, ordinary maintenance or construction work not heretofore required on Sunday will not be required on the sixth day of the work week."

The dispute was handled in the usual and proper manner, up to and including the highest officer of the Carrier designated to handle such disputes, without obtaining a satisfactory settlement. Pertinent exchange of correspondence has been reproduced and attached hereto identified as Brotherhood's Exhibit Nos. 1 through 12.

There is an agreement between the parties bearing an effective date of March 1, 1953, as amended, which is by reference made a part of the record in this dispute.

(Exhibits not reproduced.)

CARRIER'S STATEMENT OF FACTS: Signal Gang Foreman W. Brickman, hereinafter referred to as claimant, is assigned to supervise construction and maintenance on Carrier's New York Division main line and branch lines.

At Orange, New Jersey, on Carrier's principal commuter and freight line, it was necessary for the State to contract construction of a new railroad bridge to carry Carrier's trains over Interstate 280 at Milepost 11.73. The signal work connected with the installation of the new bridge was performed on the involved week-ends, as to perform it during the normal work week would have disrupted and delayed over one hundred (100) eastbound and westbound commuter trains operated through Orange, New Jersey, Monday through Friday, and Carrier's freight trains which are operated into and out of the New York City gateway over this main line. Commuter trains and freight traffic over this line on week-ends is reduced seventy-five (75) percent. Another very important reason why Carrier had to perform the work on weekends was because its regular force was busily engaged during the normal work week in performing ordinary maintenance or construction work which had been programmed for completion that year.

Claim filed on behalf of claimant was timely handled and denied at all levels of appeal. Copies of correspondence are attached as Carrier's Exhibits A through M.

(Exhibits not reproduced.)

OPINION OF BOARD: Claimant was assigned to supervise construction and maintenance on Carrier's New York Division main line and branch lines.

At Orange, New Jersey, on Carrier's principal commuter and freight line, it was necessary for the State to contract construction of a new railroad bridge to carry Carrier's trains over Interstate 280 at Milepost 11.73. The signal work connected with the installation of the new bridge was performed on the involved week-ends as to perform it during the normal work week would have disrupted and delayed over one hundred (100) eastbound and westbound commuter trains operated through Orange, New Jersey, Monday through Friday, and Carrier's freight trains which are operated into and out of the New York City gateway over the main line. Commuter trains and freight traffic over this line on week-ends is reduced seventy-five (75) percent.

Rule 7(d) affirms that ordinary maintenance or construction work not heretofore required on Sunday will not be required on the sixth day of the work week. But we must agree with the Carrier's contention that the circumstances here were not ordinary.

No rule has been cited which would require the Carrier to make additional payment for work performed under such circumstances. We find nothing in the language of Rule 7 which requires the Carrier to allow overtime pay or to make additional payment at the punitive rate for work performed under such circumstances. The evidence presented to us in this case does not support the Petitioner's contention that there has been a violation of the Agreement, so we must deny this claim.

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.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **THIRD DIVISION**

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 25th day of June 1970.