



Award No. 18139

Docket No. SG-18330

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:

On behalf of Signal Maintainer S. J. Muzi and Helper A. G. Storey for five and one-half (5½) hours' pay each at their respective overtime rates account not being called Sunday, October 15, 1967, to repair L 38 NGP line wire at Mile Post 22.75, which had either broken or been shot down. [Carrier's File: 157-SIGNALMEN]

EMPLOYEES' STATEMENT OF FACTS: Claimants S. J. Muzi and A. G. Storey are the regularly assigned Signal Maintainer and Helper on a signal maintenance territory designated by the Carrier as Section 5, Randolph, New York.

On Sunday, October 15, 1967, a rest day of the claimants, the eastbound signal at Waterboro interlocking failed to clear at the command of the dispatcher. The failure of this home signal to respond to the dispatcher indicated trouble in the signal system approaching the signal.

The dispatcher had received similar indications from this same signal on previous occasions and because the territory approaching the signal was the regular territory of Maintainer Muzi and Helper Storey he has called them to repair the trouble. On this date, however, he called the regular Maintainer and Helper from the adjoining territory who found and repaired a broken control wire at Mile Post 22.75, which is on Section 5, the regularly assigned territory of Claimants Muzi and Storey.

Rule 14(h) of the current Signalmen's Agreement reads as follows:

"(h) Where work is required by the Carrier to be performed on a day which is not a part of any assignment, it may be performed by an available furloughed unassigned employee who will otherwise not have 40 hours of work that week; in all other cases by the regular employee."

A claim was filed on behalf of Maintainer Muzi and Helper Storey for the amount of overtime required by the adjoining maintainer and helper to make the repair.

OPINION OF BOARD: Claimants, Signal Gang No. 5, were assigned to maintain the territory between MP 1.6 west of Salamanca, N. Y. to, but not including, the westward home signal at Waterboro, N. Y.

Signal Gang No. 7 was assigned to maintain the territory including the westbound home signal of the Waterboro "WO" interlocking plant, MP 23.1 to MP 39.0.

On October 15, 1967, Signal Gang No. 7 was called by the dispatcher at 3:45 P. M. to investigate an improper signal indication on the westbound home signal and No. 37 crossover not restoring to normal position.

The first work performed by the Maintainer and Assistant at the plant was to restore the crossover to normal. They then proceeded to test and inspect the interlocking apparatus and found it functioning properly. They then tested the track circuits and relays in the signal house and when they found that the indication relay for signal L-38 was in the de-energized position, they knew that the circuit between approach signal 433-1 and the home signal was not operating. In order to eliminate further delay of trains, Signal Gang No. 7 then proceeded to inspect the line wire eastward and at MP 22.75, or approximately one-third of a mile on Section No. 5, found the line broken and temporarily repaired same. The time spent by them on Section No. 5 was "not more than 30 minutes."

The rule cited and relied on by Petitioner as supporting the claimants' right to be called in the instant case is Rule 14 (h):

"RULE 14.

(h) Where work is required by the Carrier to be performed on a day which is not a part of any assignment, it may be performed by an available furloughed unassigned employe who will otherwise not have 40 hours of work that week; in all other cases by the regular employe."

The record indicates that the westbound home signal and all other signal and switch apparatus of "WO" interlocking plant was within the territory of Signal Gang No. 7. It was necessary for the employes of Section 7 to go on the territory of Section 5 and spend less than an hour to make temporary repairs.

A careful review of the record indicates that the parties make conflicting assertions as to past practice with respect to calling of employes for performance of work on unassigned days, but neither party submits any proof of past practice.

The Petitioner has presented no proof that the Agreement has been violated.

The Awards of this Board recognize that the Carrier in an emergency has broader latitude in naming employes than in normal situations. In the instant case, the record indicates that the temporary work done in the territory of Section 5 was an integral part of the total necessary emergency repairs.

In the absence of an express prohibition to assign emergency work and in view of the fact that the Petitioner has failed to prove a violation insofar as Rule 14(h) is concerned, we must deny the claim.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds hold 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 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 30th day of September 1970.