

Award No. 18280
Docket No. SG-18477

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Arthur W. Devine, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

PENN CENTRAL TRANSPORTATION COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the former Pennsylvania Railroad Company that:

(a) Carrier violated the Scope and especially Article 4, Section 5, Article 4, Section 9, and Article 2, Section 23(h), of the current C. & S. Agreement when, due to a sleet storm on January 27, 1967, they diverted work on the Richmond Branch from Newcastle, Indiana, to Anoka Junction on January 27, 28, 29, 30, 31, February 1, 2, 3, 4 and 6, 1967, to two Columbus Division Seniority District No. 23 Signal Gangs consisting of two Foremen and ten men, thus depriving twelve available regular Cincinnati Division Seniority District No. 24 employees of this work.

(b) The twelve senior available former Cincinnati Division Seniority District No. 24 employees, namely, W. Abner, a reduced Foreman, be paid seven days at Foreman's rate and eighty-two hours at Foreman's overtime rate. That J. R. Donovan, Foreman, be paid 85.8 hours at Foreman's overtime rate. That Signalmen, C. H. Ashbaugh, A. D. Poe, A. Goodman, D. D. Baird, R. T. Tarvin, W. G. Reuther, H. L. Sticthenoth, R. H. Lewis, H. M. Newcomer, and J. T. Wallace be paid at their respective overtime rates, an equal amount of 686.6 hours' overtime worked by former Columbus Division Seniority District No. 23 employees at locations and on dates mentioned in claim (a) above. (Carrier's File: System Docket No. 609 — Buckeye Division — Case No. Z-113)

EMPLOYEES' STATEMENT OF FACTS: There is an agreement in effect between the parties to this dispute (rules effective June 1, 1943, except as otherwise specified, rates effective September 1, 1949, except as otherwise specified), as amended, which is by reference thereto made a part of the record in this dispute. Those parts referred to in our statement of claim are:

"SCOPE: These Rules, subject to the exceptions hereinafter set forth, shall constitute separate Agreements between the Pennsylvania Railroad Company, and Baltimore and Eastern Railroad Com-

The signal and communication facilities were restored on a temporary basis during the period January 27, 1967, through February 6, 1967, by the use of twelve Signal Department employes from Seniority District No. 23 who assisted eight Signal Department employes from Seniority District No. 24. Twelve employes from Seniority District No. 24, the Claimants, were not used for the emergency work.

The Carrier's Richmond Branch (Seniority District No. 24) runs north-westward from Cincinnati, Ohio (mile post 0.7) through Richmond, Indiana (mile post 74.6) to the Chicago Division Post (mile post 177.3). Carrier's main line from Columbus, Ohio to Indianapolis, Indiana (Seniority District No. 23) runs westward and also passes through Richmond, Indiana. The ice storm and resulting line prostration occurred north of Richmond between mile posts 101.5 and 177.3. The twelve Seniority District No. 23 employes who assisted with the emergency work had headquarters at Richmond, Indiana. The twelve Claimants from Seniority District No. 24 had headquarters at Cincinnati, Ohio, or the near vicinity, a distance of about 100 to 175 miles from the severe damage. Claimants (except one on vacation) were fully employed and, in fact, worked substantial overtime during the time in question.

By letter dated March 14, 1967, the Local Chairman submitted the claim to the Supervisor, C. & S., in the same form as it appears at the beginning of this Submission. The Supervisor denied the claim with his letter dated April 12, 1967, following which the Local Chairman rejected his decision and listed the claim for discussion with the Superintendent of Personnel. Following a discussion on May 18, 1967, the Superintendent denied the claim in a letter dated June 19, 1967. The Local Chairman rejected the Superintendent's decision and requested preparation of a Joint Submission, a copy of which is attached as Exhibit A.

In a letter dated August 11, 1967, the General Chairman presented the claim to the Manager-Labor Relations (now Director-Labor Relations), the highest officer of the Carrier designated to handle such disputes on the property. The claim was discussed at a meeting held on September 17, 1968, and by letter dated October 3, 1968, the Director denied the claim, copy attached as Exhibit B.

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 the Carrier's use of Signal Department employes from Seniority District No. 23 to perform emergency service on Seniority District No. 24, violated the applicable Agreement, and whether Claimants are entitled to the compensation claimed.

(Exhibits not reproduced.)

OPINION OF BOARD: On January 27, 1967, a severe ice storm caused a complete failure of Carrier's telephone and signal lines from Elwood, Indiana, to Anoka Junction, and a partial failure from New Castle, Indiana, to Elwood. The territory involved is on Seniority District No. 24.

The signal and communication facilities in the area involved were restored on a temporary basis during the period January 27, 1967 through February 6, 1967, with the exclusion of Sunday, February 5, 1967, by the use of two C. & S. Gangs, consisting of two foremen and ten men from

Seniority District No. 23, who assisted eight men from Seniority District No. 24. The claim is in behalf of other employees of Seniority District No. 24 for the difference between the overtime they worked and the overtime made by the employees of Seniority District No. 23.

Article 4, Section 17, of the applicable Agreement provides:

"(a) An employee assigned to temporary service, on his home seniority district, or transferred from one seniority district to another for temporary service, shall retain seniority in his home district and may when relieved, return to the position from which taken or exercise seniority to any position bulletined during his absence. If, during his absence, the position from which he was taken has been abolished or permanently filled by a senior employee, he may exercise seniority in accordance with the provisions of Section 8 of this Article.

(b) Except for temporary emergency service, an employee shall not be transferred to another seniority district unless he so desires."

The parties are in agreement that an emergency did exist, and that the transfer of District No. 23 employees to District No. 24 was temporary. However, the Petitioner contends that the Agreement was violated because District No. 24 employees did not work the same amount of time as the employees from District No. 23.

The Board must apply the Agreement as written. Article 4, Section 17 of the Agreement, heretofore quoted, provides for the transfer of employees to another seniority district for temporary emergency service. It does not contain any restriction, such as contended for by the Petitioner herein, and the Board cannot, through the guise of an interpretation, apply such restriction. The claim must, 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 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 20th day of November 1970.

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