

Award No. 18455
Docket No. SG-18690

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Melvin L. Rosenbloom, 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 New York Central Railroad Company (Lines West of Buffalo) that:

(a) Carrier violated the provisions of Rule 9 of the current working Agreement, in effect March 1, 1951, when Signal Maintainers D. W. Pierce and C. Parent were required to perform work off of their respectively assigned territories, Mr. Pierce assigned headquarters being at Wyndotte, Michigan, and Mr. Parent assigned headquarters being at West Detroit Interlocker in Detroit, Michigan, and the location they were assigned to perform the work being at a location West of Lonyo Road in Detroit, Michigan, and such location not being on or within their assigned territorial limits, and the work they performed was in connection with the installation of new cross-overs at the Lonyo Road location.

(b) Carrier now is required to pay Signal Maintainer D. W. Pierce 8 hours each day at the pro rata rate of pay as penalty time for the dates of December 5, 6, 9, 10, 11, 12, 13, 16, 17, 18, 19, 20, 30 and 31, 1968, and January 2 and 3, 1969, and pay Signal Maintainer C. Parent 8 hours each day at the pro rata rate of pay as penalty time for the dates of December 5, 6, 9, 10, 11, 12, 13, 16, 17, 18, 19, 20 and 31, 1968, and January 2, 3 and 7, 1969. (Carrier's File: Sig. C-29.)

EMPLOYES' STATEMENT OF FACTS: There is an agreement between the parties to this dispute bearing an effective date of March 1, 1951, which is by reference made a part of the record in this dispute; it provides in part:

"RULE 9.

Employees will not be required to suspend work during the assigned hours to absorb overtime."

On the dates set out in part (b) of our statement of claim Signal Maintainers D. W. Pierce and C. Parent were required by the Carrier to perform work at a location west of Lonyo Road in Detroit, Michigan, which location is outside the territorial limits of their respective assigned territories.

This dispute was 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 correspondence evidencing such handling has been reproduced and is attached, identified as Brotherhood's Exhibit Nos. 1 through 8.

(Exhibits not reproduced.)

CARRIER'S STATEMENT OF FACTS: Claimants D. W. Pierce and C. Parent on the dates involved in this dispute held hourly rated positions of Signal Maintainer with headquarters at Wyandotte, Michigan and Detroit Tower, Detroit, Michigan, respectively, with assigned hours of 7:30 A. M. to 4:00 P. M., Monday through Friday. Their normal assigned duties included the construction and installation of crossover protection.

On the dates involved and during their regularly assigned hours, the Claimants were used outside their assigned territories to assist another Signal Maintainer on the latter's assigned territory with signal work in connection with the installation of crossovers by Track Department Employees for an industrial siding in the vicinity of Lonyo Road within the Detroit Terminal limits and within the limits of Claimants' seniority district. Claimants were compensated from the time they reported at their headquarters until the time they returned each date.

The subject claim was filed with the Carrier by the General Chairman's letter of February 4, 1969. The claim was denied and was then progressed to the Superintendent Labor Relations and Personnel, the highest officer of the Carrier designated to handle the claim on the property, who denied the claim in a letter dated April 8, 1969, a copy of which is attached as Carrier's Exhibit No. 1.

There is on file with your Board an Agreement effective March 1, 1951, between the Brotherhood of Railroad Signalmen and the Penn Central Transportation Company (formerly The New York Central Railroad Company, Lines West of Buffalo) governing the rules, rates of pay and working conditions of Claimants employe classification.

So far as the Carrier is able to anticipate the basis of this claim, the question to be decided by your Board is whether the Claimants are entitled to additional compensation account of being used off their assigned territory to perform signal work on another territory.

(Exhibits not reproduced.)

OPINION OF BOARD: Claimants hold positions as signal maintainers. Their respective bulletins contain a description of their assigned territories. On the dates in question, Claimants were assigned during their regular hours to assist another signal maintainer on signal work on the latter's assigned territory. There is no evidence that anyone was assigned to Claimants' territories during the time they were performing the work outside their territories.

Claimants contend that Carrier violated Rule 9 of the Agreement which provides:

"Employes will not be required to suspend work during the assigned hours to absorb overtime."

Claimants argue that an assignment outside their bulletined territories amounts to a suspension of work within the meaning of Rule 9 and that such an assignment deprives other employees of overtime opportunities. We do not agree.

We are not persuaded that Rule 9 was intended to prohibit the assignment of employees outside their territories during their regular hours. In fact, other portions of the Agreement specifically provide for compensation and expenses on those occasions when employees are assigned outside their territories, thereby demonstrating the intent of the parties that Carrier may legitimately make such assignments. We are of the view instead that the proper application of Rule 9 was described by Referee Dorsey in Award 16611 wherein he held that the rule was designated to prohibit the suspension of work of an employee during his regular assigned hours for the purpose of evading the overtime penalties prescribed in the Forty Hour Week Agreement.

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 Employts 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

Claims denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 19th day of March 1971.