



Award No. 18537

Docket No. SG-18796

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Robert M. O'Brien, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

SEABOARD COAST LINE RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Seaboard Coast Line Railroad Company that:

(a) Carrier violated the Signalmen's agreement, particularly Rule 22, when, on February 10, 11, 12, 17, 18, 26, March 6, 7, 11 and 12, 1969, Signal Maintainer L. C. Beddingfield was required to perform the principal duties of Signal Inspector, but was not compensated the higher rate.

(b) Carrier pay Signal Maintainer L. C. Beddingfield the difference between the hourly rate of signal maintainer and the monthly rate of signal inspector for all dates he is used to perform the principal duties of signal inspector. Claim commencing February 10, 1969, and continuing thereafter until a correction of the violation is made.

(Carrier's File: 15-2; 15-1)

EMPLOYEES' STATEMENT OF FACTS: There is an agreement between the parties to this dispute bearing an effective date of July 1, 1967; of particular pertinence to this dispute are Rules 1, 2, 6 and 22, reading:

"RULE 1. SCOPE

This agreement governs the rates of pay, hours of service and working conditions of all employees specified in Rules 2, 3, 4, 5, 6, 7 and 8, engaged in the construction, installation, inspecting, testing, maintenance and repair, either in signal shops or in the field, of all signalling, recognized signalling systems, interlocking plants, traffic control systems, wayside cab signals or apparatus, wayside train stop and train control systems, highway crossing protection devices, spring switch mechanisms when protected by signals, train order signals, car retarder systems (except track work in connection therewith), bonding of track, together with all appurtenances, devices, apparatus and equipment necessary to said systems and devices as named herein, as well as any other work generally recognized as signal work.

March 6, 7, 11 and 12, 1969, Signal Maintainer L. C. Beddingfield was required to perform the principal duties of Signal Inspector, but was not compensated the higher rate.

(B) Carrier pay Signal Maintainer L. C. Beddingfield the difference between the hourly rate of signal maintainer and the monthly rate of signal inspector for all dates he is used to perform the principal duties of signal inspector. Claim commencing February 10, 1969, and continuing thereafter until a correction of the violation is made.'

We would appreciate it if you would advise me whether this claim will be paid."

ASST. VICE PRES.-PERSONNEL TO GEN. CHAIRMAN,
AUGUST 25, 1969

"Yours of August 1 appealing decision of Mr. J. R. DePriest, Superintendent of Communications and Signals, in claim in behalf of Signal Maintainer L. C. Beddingfield for difference between rate of Signal Maintainer and rate of Signal Inspector on certain specified dates.

Mr. DePriest has properly outlined why there is no merit to the claim, and I concur in his position. Rule 2 specifies that a Signal Inspector is, 'An employe who is regularly assigned to and whose principal duties are the inspection and testing of signal appliances or apparatus.' As Mr. Beddingfield's principal duties are not the inspection and testing of signal appliances or apparatus, he could not qualify as a Signal Inspector; and the inspection he made on dates referred to was incidental to his regular Signal Maintainer duties. Rule 22 applies, "When an employe is required to fill the place of another employe receiving a higher rate", and he was not so required to fill the place of a Signal Inspector on those dates.

There being no merit to the claim, it is accordingly declined."

ASST. VICE PRES.-PERSONNEL TO GEN. CHAIRMAN,
OCTOBER 8, 1969

"Confirming conference discussion with Mr. Dick on September 30th covering claim in behalf of Signal Maintainer L. C. Beddingfield for difference between rate of Signal Maintainer and rate of Signal Inspector on certain specified dates.

You did not present any additional support for this claim and you were advised that there was no basis for changing our decision of August 25th."

OPINION OF BOARD: On certain days in February and March, 1969, Claimant made visual inspection of relays on his assigned territory. Claimant is a Signal Maintainer, but the Organization contends that on the dates in question he was required to perform the principal duties of Signal Inspector, though he was not compensated the higher rate.

In support of their contention, the Organization relies on Rules 1, 2, 6 and 22, which for convenience are reproduced as follows:

"RULE 1. SCOPE

This agreement governs the rates of pay, hours of service and working conditions of all employees specified in Rules 2, 3, 4, 5, 6, 7 and 8, engaged in the construction, installation, inspecting, testing, maintenance and repair, either in signal shops or in the field, of all signalling, recognized signalling systems, interlocking plants, traffic control systems, wayside cab signals or apparatus, wayside train stop and train control systems, highway crossing protection devices, spring switch mechanisms when protected by signals, train order signals, car retarder systems (except track work in connection therewith), bonding of track, together with all appurtenances, devices, apparatus and equipment necessary to said systems and devices as named herein, as well as any other work generally recognized as signal work.

No employee other than those classified herein will be required or permitted to perform any of the work covered by the scope of this agreement."

"RULE 2. SIGNAL INSPECTOR

An employee who is regularly assigned to and whose principal duties are the inspection and testing of signal appliances or apparatus as outlined in the scope rule of this agreement, shall be classified as a signal inspector."

"RULE 6.

SIGNALMAN - SIGNAL MAINTAINER

An employee assigned to perform work generally recognized as signal work shall be classified as a signalman or signal maintainer. Signal work referred to herein includes the construction, installation, maintenance and repair work as covered in Rule 1 (Scope) of this agreement."

"RULE 22.

FILLING THE PLACE OF ANOTHER EMPLOYEE

When an employee is required to fill the place of another employee receiving a higher rate of pay, he shall receive the higher rate; but if required to fill temporarily the place of an employee receiving a lower rate, his rate will not be changed."

It is a well established principle of this Board that in order to be upheld, the Organization has the burden of proving, by probative evidence, that the applicable Agreement has been violated. We believe they have failed to sustain this burden.

The crux of their claim is that Claimant was required to and did perform the principal duties of a Signal Inspector even though his regular assignment is that of a Signal Maintainer and according to Rule 22, he should have been paid the higher rate of Signal Inspector. However, Rule 22 is unambiguous in its language when it states that "when an employe is required to fill the place of another employe receiving a higher rate of pay, he shall receive the higher rate." (Emphasis ours.) The record is devoid of any evidence which would indicate that Carrier required or instructed Claimant to perform the duties of a Signal Inspector on the dates in question. The Carrier states that the visual inspection of relays on Claimant's assigned territory was merely incidental to his regular assignment and the Organization failed to prove that it was work usually performed by Signal Inspectors. In Award 10188, involving different parties though similar Rules, Referee Larkin decided this same issue when he said:

"It cannot be denied that Signal Maintainers have always tested and inspected signal equipment as a part of their regular duties. The particular assignment here in question was that of testing the Signal Maintainer's 'own relay'. This indicates it was done in connection with their other assigned duties. It was not a case of their being removed from their regular assigned territory and duties to fill a vacancy of a Signal Testman."

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: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 29th day of April 1971.

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