

NATIONAL ~~RAILROAD~~ ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19752  
Docket Number SG-19528

C. Robert Roadley, Referee

(Brotherhood of Railroad **Signalmen**

PARTIES TO DISPUTE: (

(The Illinois Central Railroad Company

STATEMENT OF CLAIM: Claim of the General **Committee** of the Brotherhood of Railroad Signalmen on the Illinois Central Railroad:

On behalf of Signal Maintainer John 3. **D'Arcy** for all overtime hours worked by junior employees **at** the **Riverdale** Interlocker, commencing December 20, 1969, except January 14, 15, 16, 17, and February 9 through 13, 1970, and continuing thereafter until corrected, account not called to perform overtime work during his off duty hours. (Carrier's File: 135-192-160 Spl.; Case No. 255 **Sig.**)

OPINION OF BOARD: This claim involves the matter of contract interpretation. Petitioner, in his submission to this Board, described the questions for our determination as follows:

"The basic questions involved herein are whether or not the Carrier is **required to observe the** principle of seniority in assigning employees from the same seniority district to perform overtime work when regular assignee and adjoining maintainers are not available and, if so, if Carrier was justified under the circumstances in ignoring that principle."

In support of its position, Petitioner has referred this Board to Article 2, Rule **212(f)**, of the Agreement, as being controlling in that claimant, who was senior to the employee used on the dates in question, should have been called in on overtime, in view of the fact that neither the regular assignee or an adjoining assigned employee were available. The Carrier, on the other hand, avers that there is no basis for the claim in view of the fact that the company "fully complied with all the **provisions of Rule 212.**"

The **two** sections of Rule 212 that are germane to this dispute read as follows:

Rule **212(e)** - "Overtime on a position shall go to the regular assignee on such position. If the regular assigned **employee** is not **available**, an adjoining assigned employee on the seniority district will be called."

Rule 212 (**f**) - "When *overtime* service is required of a part of a gang or group of employees, the senior employees of the gang or group of the class involved, who are available, shall have **preference** to it."

Simply stated, Rule 212(e) provides that overtime work will be given to the regular assigned employee if he is **available or, if** he is not available, to an adjoining available employee on the seniority district. The rule is silent as to the procedure to be followed in assigning overtime insofar **as the** recognition of seniority is concerned.

Rule 212(f), the Rule cited by Petitioner, speaks **of** overtime that is required of a gang or group of employees and gives preference to senior employees of the gang or group of the class involved who are available. It is clear that this rule addresses itself to overtime to be performed by a part of **a** gang or group of employees - more than one. If it had been the intention of the parties who negotiated this rule to require that preference for overtime work be given to senior employees **not** of the gang or group involved but merely to **a** senior employee of the class then the rule would have so stated. It does not so state. Additionally, the record before us does not support Petitioner's contention that there was an agreed upon call list for the overtime work involved at the Riverdale Interlocker.

It is not within the purview of this Board to read into a Rule rights or restrictions that were not specifically made a part of the Rule at the time was negotiated. The remedy to clarification lies at the bargaining table and **not** with this Board.

Award 16489, among others, stated:

"We have held on any number of occasions that we follow the basic and ordinary rules of contract interpretation. We are bound by the terms and provisions of the Agreement before us. **We** have no power or authority and we may not make new provisions, abrogate or alter existing provisions of the Agreement. That is the province of the parties themselves. We endeavor to ascertain and to give effect to the intention of the parties and that **intention is** to be deducted from the language employed by them."

Further, Award 13566 stated, in part:

"That the Agreement contains seniority provisions is not proof that seniority is to be observed under all circumstances. In the absence of a rule guaranteeing preference of overtime service to senior employees under the circumstances in the instant case, we do not infer that the parties contemplated such rights. **\*\*\*\*** Although we recognize the importance of the Seniority Rules and the need to respect them, we observe that the rights in question must exist under the Agreement before they can be impaired."

In the light of the foregoing we do not find that the claimant was **in** handled or that the agreement was violated and we will, therefore deny the claim.

Award Number 19752  
Docket Number SG-19528

Page 3

**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 involve& herein; and

That the Agreement was not violated.

**A W A R D**

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST: E. A. Killen  
Executive Secretary

Dated at Chicago, Illinois, this 11th day of May 1973.