

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number **20630**
Docket Number SG-20498

Robert A. **Franden**, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
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(Chicago and North Western **Transportation Company**

STATEMENT OF CLAIM: Claim of the System General Committee of the Brotherhood of Railroad Signalmen on the Chicago and North Western Transportation Company that:

(a) On or about May 24, 1972, the Carrier violated the current Signalmen's agreement, particularly Rule 17, **20(a&d)**, 38 and 76, also Circular Letter No. 1380. I.C.C. inspection rule page 76, when Carrier unilaterally assigned **S&O** Leader Signalman M. L. Elsberry to the temporarily vacant position of Signal Maintainer at Ames, Iowa.

(b) Carrier also violated Rule 38 current Signalmen's Agreement when it unilaterally assigned the above **named** person "pending bulletin", on Bulletin No. 12 dated June 20, 1972.

(c) Carrier now be required to compensate M. L. Elsberry for all time beginning May 24, 1972 at Rule 20(a) **which** applies to work off his regular **assignment** under provisions of the Agreement.

/Carrier's File: 79-3-107/

OPINION OF BOARD: The Signal Maintainer at **Ames**, Iowa was laid off because of an eye injury. The Carrier assigned Leader Signalman Elsberry, the Claimant, to work **that** position on a temporary basis. When the Carrier learned that the injured Signal Maintainer would be out for **some** time the Claimant was assigned to said position "pending bulletin".

It is the position of the Organization that Rule 20 (a) of the agreement was violated when Claimant was first used temporarily on said position. It is **further claimed** that Rule **38** was violated when the Carrier failed to get the Agreement of the local Chairman before filling the vacancy pending bulletin.

Rules 20 (a) and 38 are quoted below:

"Rule 20(a).....**An employee assigned** to a section, shop, or plant will not be required to perform work outside such section, **shop, or** plant not covered by his assignment, except in case of emergency when there are no other qualified signalmen available, and when so employed will be allowed additional compensation on basis of one-half regular hourly rate

"for time worked. Men **will** not be required to remain away from their section, shop, or plant in excess of three days. This rule does not apply to helpers or assistant signalmen who may be temporarily advanced to fill a temporary vacancy."

"Rule **38.....** (a) **New** positions or vacancies will be bulletined within thirty days previous to or ten days following dates new positions are established or vacancies occur, except that bulletins covering temporary vacancies caused by regular assignee laying off account **sickness** or for brotherhood business may be deferred until the expiration of thirty days from date such vacancies occur. All bulletins will show classification, job **number**, location and probable duration.

As **near** to the 15th of each month as practicable, a bulletin will be issued showing all assignments of **employees** to positions during the preceding thirty days when such assignments are not covered by other bulletins.

(b) Assignments to new positions or vacancies will be made after bulletin notice has been posted for a period of seven days at all headquarters, and copies sent to system general and local chairmen, during which time applicants will file their bids in duplicate with the local chairman and the officer whose name appears on the bulletin, duplicate copies to be receipted and returned to applicant. Within the next succeeding five days name of successful applicant will be bulletined and date of transfer stated, which **will** be not later than five days thereafter, unless bulletin advertising new position or vacancy established date thereof. **Employees may apply for and be assigned to new positions or vacancies pending bulletin, such assignment will be as agreed to by supervisor communications and signals and local chairman, senior man to be given preference.**"

(Emphasis applied)

The Organization has failed to show that the actions of the Carrier in assigning Claimant to work the Signal Maintainer position at Ames, Iowa was a violation of Rule 20(a). It is incumbent on the Organization to show that the Claimant falls under the language of 20 (a) which qualifies those entitled to the punitive rate.

With regard to Rule 38, however, there is no question but that the **Carrier** was required to obtain the agreement of the local chairman prior to filling the vacancy pending bulletin. The Organization denies, as the Carrier has alleged, that the local chairman has refused to negotiate on these matters. In regard to the instant matter the record is clear that no effort whatsoever was made. **This** was violative of the agreement.

We will sustain the claim as to part B and allow an additional one-half day compensation to Claimant for days worked from June 20, 1972 to July 3, 1972.

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 violated.

A W A R D

Claim sustained in part in accordance with this opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 7th day of March 1975.