

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20760

Docket Number SG-20436

Robert A. **Franden**, Referee

(Brotherhood of Railroad Signalmen

PARTIES TO DISPUTE: (

(Chicago, Rock Island and Pacific Railroad Company

STATEMENT OF CLAIM: Claim of the General **Committee** of the Brotherhood of Railroad Signalmen on the Chicago, Bock Island and Pacific Railroad Company that:

Carrier pay to Signal Maintainer W. F. **Berneking** 8 hours' overtime which he worked May 27, 1972, Claimant's regular off-day, assisting the regular assigned Signal Maintainer with repairs to switch No. 68 located in **Silvis** Hump Yard.

OPINION OF BOARD: Claimant was called to work on **the** sixth day of his work week which is **a** day on which he is not regularly scheduled for work.

The Claimant's position is that the work involved was ordinary maintenance and construction work while the Carrier maintains that the work was **emergent** in nature. If the work is ordinary maintenance and construction work the Claimant is entitled to be compensated at the **publi-**tive rate as claimed. The applicable rule is rule 62 which in pertinent part reads as follows:

Rule 62 - 3rd paragraph - "No overtime is allowed for time worked in excess of eight **(8)** hours per day on the regularly assigned five (5) days per week the employee is scheduled to work, nor on the first scheduled rest day (6th day) of the work week or holidays; on the other hand, no **time** is to be deducted unless the employee lays off on his **own** accord."

Rule 62 - 6th paragraph - "Such monthly rated employees will not be required to **perform** ordinary **maintanance or** construction on the **sixth** day of the work week nor on recognized holidays. For such service rules applicable to **other** employees of the same class shall apply as provided in **Rules** 17 and 18. **Only** emergency service my be required on such sixth day, which will be the service necessary to restore the signal system to safe working order."

The Claimant maintains that because the derailment only put 3 of the Carrier's 49 tracks out of service an emergency condition did not exist. The Carrier maintains that the effect of having tracks 6, 7 and 8 out of service was crippling to the Carrier's operations.

We note that the final sentence of paragraph 6 states, "Only emergency service may be required on such sixth day, which **will** be the service necessary to restore the signal system to safe working order."

There is no question but that there was a derailment. There is no question but that the derailment caused the necessity of the **performance** of the signal work in question, to-wit: the replacement of the power switch **machine**. There is further no question but that the Carrier's signal system would not be restored to safe working order until the power switch machine was repaired or replaced.

We hold that under the conditions present herein an emergency existed as contemplated by rule 62 such as would permit the Carrier to call Claimant on his 6th day without being liable to compensate him at the punitive rate.

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.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

L. W. Paulson
Executive Secretary

Dated at Chicago, Illinois this **18th** day of July 1975.