NATIONAL RAILROAD ADJUSTMENT BOARD

Award Number 20797
THIRD DIVISION Docket Number SC-20616

William M. Edgett, Referee

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

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

Claim No. 1:

(a) Carrier violated the current agre-t between the Brotherhood of Railroad Signalmen and the Chicago North Western Transportation Company when overtime slip for Oct. 15, 1972 submitted by hr. Ed. Reichhoff for 5 hours and 30 minutes at the double time rate was returned to him unapproved by you on Oct. 17, 1972.

(b) Carrier should not be required to allow Mr. Reichhoffs overtine slip as presented to you. (Carrier file: 79-g-101)

Claim No. 2:

(a) Carrier violated the current agreement between the Brotherhood of Railroad Signalmen and the Chicago North Western Transportation Company, when on November 14, 1972 overtime slips dated November 8, 1972 and November 9, 1972 each for eight hours at the half tine rate of signal maintainer were returned as unapproved to Mr. R. Bethke.

(b) Carrier should now be required to compensate hr. Bethke for the total of sixteen hours at the half tine rate as shown on above overtime slips. (Carrier file: 79-a-104)

Claim No. 3:

(a) Carrier violated the current agreement between the Brotherhood of Railroad Signalmen and the Chicago North Western Transportation company when: 1. Overtime slip dated Nov. 5, 1972 for (4) hours and 45 minutes at the double time rate of signal maintainer submitted by Mr. Lloyd Pautzke was returned to him unapproved Nov. 8, 1972. 2. Overtime slip dated Nw. 20, 1972 for 3 hours at the half tine rate of signal maintainer submitted by hr. Lloyd Pautake was returned unapproved Nw. 27, 1972.

(b) Carrier should now be required to compensate Mr. Pautake for (4) hours 45 minutes at the double time rate for time spent bonding rail changed out on Nov. 5, 1972 his rest day and carrier should now also be required to compensate him for 3 hours at the half time rate of signal maintainer for the time spent by him on the Oxford territory bonding an open joint at Mile Post 108.4 on Nw. 20, 1972. (Carrier file: 79-8-106)

Claim No. 4:

(a) Overtime slip dated Dec. 2, 1972 for 7 hours at the double time rate signal maintainer, $10.55 account the east absolute signal at Oxford at stop; overtime slip dated Dec. 2, 1972 for 5 hours at the double time rate signal maintainer, $10.55, account of open joint at M.P. 108.5; and 9 hours and 30 min. on overtime slip dated Dec. 3, 1977. account east absolute and signal 874 Glen Oak at stop, east absolute and signal 901 Grand Marsh at stop, east absolute and signal 892 Oxford at stop, at the double time rate of $10.55 were returned by your office on Dec. 5, 1972 unapproved to Mr. Lloyd Pautzke signal maintainer at Adams, Wis.

(b) Carrier should now be required to allow the above claims for overtime pay as supported by the above mentioned overtime slips. (Carrier file: 79-8-108)

Claim No. 5:

(a) Carrier violated the current agreement between the Brotherhood of Railroad Signalmen and the Chicago North Western Transportation Company, when overtime slip submitted by Mr. Lloyd Pautske for (4) hours at the half time signal maintainers rate for inspecting the crossing protection on Nov. 24, 1972 on the Oxford territory was returned to him unapproved Nov. 27, 1972.

(b) Carrier should now be required to compensate Mr. Pautske for (4) hours half time rate as shown on his overtime slip. (Carrier file: 79-8-109)

Claim No. 6:

(a) Overtime slip dated Dec. 6, 1972 for four hours half time submitted by Mr. Ed. Reichhoff account of working Adams territory respacing signals between Adams and Necedah, Wis. was returned as unallowed by you on December 8, 1972.

(b) Overtime slip dated Dec. 6, 1972 for eight hours at the half time rate submitted by Mr. Reichhoff account of working on the Adams territory respacing signals between Necedah and Adams, Wisconsin was returned as unallowed by you on December 8, 1972.

(c) Carrier should now be required to compensate Mr. Reichhoff for the above time claimed, a total of twelve hours at the half time leader signal maintainer's rate.

(a) Overtime slip dated January 1, 1973, four hours at the half time Leader signalmens rate, $2.68, submitted by Mr. Ed Reichhoff was returned by you as unapproved on January 5, 1973.

(b) Carrier should now be required to compensate Mr. Reichhoff for four hours at the half time as shown on above overtime slip. (Carrier file: 79-8-113)

Claim No. 7:

(a) Overtime slip dated February 17, 1973 submitted by Mr. Ed. Reichhoff for (4) hours at the half time rate of leader signal maintainer was returned by you unapproved.

(b) Carrier should now be required to compensate Mr. Beichhoff for the (4) hours half time as shown on his overtime slip. (Carrier file: 79-8-119)

OPINION OF BOARD: These claims, and the claims considered in Award 20796 , while they differ in some particulars, are baaed upon the same essential facts and require application of the same provisions of the Agreement. These claims are denied for the reasons expressed in Award 20796 .

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.

A W A R D

Claims denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. W. Paulson
Executive Secretary

Dated at Chicago, Illinois, this 29th day of August 1975.

Dissent to Award 20796, Docket SG-20615
Award 20797, Docket SG-20616
Award 20802. Docket So-20457
Award 20811, Docket SG-20611

The Majority in Awards 20796, 20797, 20802 and 20811 has erred.

The Parties' Agreement Rule 76 prohibits the execution by the Carrier of certain direct acts for the purpose of evading its ties. We established many years ago that we would not condone a Carrier's acts to accomplish indirectly that which it is prohibited from accomplishing directly. We have also established that, when one knows the inevitable outcome of a contemplated act, he must be considered to have committed the act with that intent or purpose.

The confronting records establish that the Carrier did accomplish indirectly that which is prohibited directly and that the Carrier must have known the inevitable outcome of its act. In fact, we believe the record clearly shows that such was the very reason for the Carrier engaging the "outside consulting firm"; certainly the reverse is not the case.

Awards 20796, 20797, 20802 and 20811 are in error and I dissent.

W. W. Altus, Jr.
Labor Member