

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20893
Docket Number X-20819

Irwin M. **Lieberman**, Referee

(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(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) Overtime slip dated December **26, 1972** for four hours at the one-half time rate of Leader Signal Maintainer as submitted by Mr. T. C. Malin, overtime slip dated December 27, 1972, for eight hours at the one-half time rate of Leader Signal Maintainer as submitted by T. C. Malin, and overtime slip dated January 12, 1973 for four hours and thirty minutes at the one-half time rate of **Ldr.** Signal Maintainer also submitted by Mr. Malin, was returned to him unapproved by you February 13, 1973.

(b) Carrier should now be required to compensate Mr. Malin for the above claimed time, a total of sixteen **and** one-half hours at half-time Ldr. Signal Maintainer rate of \$2.68. [Carrier's File: 79-8-118/

Claim No. 2

(a) Overtime slip for 3 hours and 5 minutes at the half-time rate of Leader Signal Maintainer Ed Krueger, for work performed repairing gate **arm** at Granite Street, Reedsburg on Feb. 17, 1973, was returned to him unapproved on Feb. 22, 1973.

(b) Carrier should **now** be **required to** compensate Mr. Krueger for the amount of time claimed above. [Carrier's File: 79-8-121/

Claim No. 3

(a) Carrier violated the current agreement between **the** Brotherhood of Railroad Signalmen and the Chicago and North Western Transportation Company, particularly Rules 76 and 20(a), when Mr. H. L. **Tomkins**, Division Signal **Supr.**, denied overtime slips:

1. Dated April 24, 1973 for 6 hours half-time rate of Ldr. Sig. Mtnr. P. R. **Singletary** account of assisting Sussex Mtnr. at Lily Road, AFE 82939.

. . .**Dated** May 7, 1973 for 1 hour and 15 minutes half-time rate of Ldr. Sig. Mtnr. Singletary and Asst. **J. G. Sornson** account of checking crossings at **Mapleton** and Ashippun.

. . .**Dated** May 10, 1973 for 2 hours and 15 minutes half-time rate of Ldr. Sig. Mtnr. Singletary and Asst. J. G. Sornson account of checking battery and crossings east of Rock Siding.

. . .Dated May 14, 1973 for 1 hour and 50 minutes half-time account of replacing insulators Ashippun to **Mapleton** and checking crossings, Ldr. Sig. Mtnr. Singletary and Asst. J. **G. Sornson**.

. . .**Dated** May 18, 1973 for 45 minutes half-time rate of Mr. Sig. Mtnr. Singletary and Asst. 3. **G. Sornson** account of checking crossings at Ashippun and Mapleton.

Above overtime slips returned unapproved on May 24, 1973.

2. Dated May 24, 1973 for 3 hours and 5 minutes at the half-time rate of Ldr. Sig. **Mtnr. P. R. Singletary** and Asst. R. N. Kobishop account of checking crossing at Ashippun and Mapleton, clearing failure of West Bound signals Bark Pit to Rock Siding.

. . .**Dated** May 29, 1973 for 3 hours and 30 minutes half-time rate of Ldr. Sig. **Mtnr. Singletary** and Asst. R. N. Kobishop account replacing broken signal lenses Marcy and checking crossing protection east of North Lake, Sussex **Mtnr.** on vacation.

. . .**Dated** May 30, 1973 for 2 hours at the half-time rate of Ldr. **Singletary** and **Asst. Kobishop** account bonding sperry car rail changed out M.P. 24.5 Sussex Mtnr. on vacation.

. . .**Dated** June 4, 1973 for 4 hours and 30 ~~minutes half-time~~ rate of Ldr. Singletary account east absolute signal Rock Siding at Stop.

. . .Dated June 4, 1973 for 2 hours and 30 minutes half-time rate of Ldr. Singletary account repairing pole line behind feed mill at Ashippun.

. . .**Dated** June 5, 1973 for 2 hours half-time rate of **Ldr. Sig. Mtnr. Singletary** and Asst. Kobishop account of checking crossings and battery east of Rock Siding to Sig. 751.

Above listed overtime slips returned unapproved by Mr. H. L. **Tomkins** June 7, 1973.

(b) Carrier should now be required to compensate Mr. **Single-tary, Sornson**, and Kobishop for **the** respective amounts of time claimed above. [Carrier's File: 79-8-135]

Claim No. 4

(a) Carrier violated the current agreement between the Brotherhood of Railroad Signalmen and the Chicago and North Western **Transporation** Company, when Mr. H. L. **Tomkins**, Div. Signal **Suprv.** denied overtime slips:

1. Dated May 14, 1973 for 3 hours at the half-time rate of Sig. Mtnr. Lloyd C. Pautzke account broken rail M. P. 111.1, Brooks, Ldr. Sig. Mtnr. at Oxford, on vacation.

. . . **Dated** May 15, 1973 for 6 hours half-time rate of Sig. **Mtnr.** Pautzke, account working with **Ldr.** from Madison, on Oxford territory. Ldr. Sig. Mtnr. Oxford on vacation.

. . . **Dated** May 17, 1973 for 2 hours **half-time** rate of **Sig.** Mtnr. Pautske account replacing bonds due to dragging equipment. Mr. from Oxford on vacation.

. . . **Dated** May 16, 1973 for 4 hours half-time rate of Sig. Mtnr. Pautske account working on Oxford territory with Ldr. from Madison. Ldr. from Oxford on vacation. Above overtime slips returned unapproved by Mr. **Tomkins** May 21, 1973.

2. Dated May 20, 1973 for 5 hours half-time rate Sig. Mtnr. Pautzke account derailment at Glen Oak and Ldr. Oxford on vacation, returned unapproved May 23, 1973 by Mr. Tomkins.

3. Dated May 21, 1973 for 1 hour and 30 minutes half-time rate Sig. Mtnr. Pautske account frog removed at Brooks and straight rail installed, Ldr. at Oxford on vacation.

. . . **Dated** May 24, 1973 for 5 hours at half-time rate of Sig. Mtnr. Pautzke account inspecting crossing and three broken rail between M.P. 100 and 104 Ldr. from Oxford on vacation.

Above overtime slips returned by Mr. **Tomkins** May 29, 1973.

4. Dated May 29, 1973 for 5 hours half-time rate of Sig. Mtnr. Pautzke **account** two broken rail, M.P. 89.6 and 101.8, Ldr. Mtnr. Oxford and Mtnr. at Dalton unavailable. Returned by Mr. **H. L. Tomkins** May 31, 1973 (initialed JJH).

(b) Carrier **should now** be required to **compensate** Mr. **Pautzke** for the above claimed time. /Carrier's File: 79-8-138/

Claim No. 5

(a) Carrier violated the current agreement between the Brotherhood of Railroad Signalmen and the Chicago and North Western Transportation Company, particularly Rules 76 and 20(a), when Mr. H. L. To&ins, Div. Signal **Suprv.**, denied overtime slips:

1. Dated May 21, 1973 for 6 hours half-time rate of Ldr. Sig. Mtnr. E. R. Krueger account of storm **damage** and checking crossing protection M. P. 190 to 213, Reedsburg, Wis. Mtnr. was on vacation.
2. Dated May 22, 1973 for 7 hours half-time rate of Ldr. Sig. Mtnr. E. R. Krueger account of repairing storm damage at **Union Center, Wisc.** Reedsburg, Wis. Sig. Mtnr. on vacation.
3. Dated May 25, 1973 for 6 hours half-time rate of Ldr. Sig. Mtnr. E. R. Krueger account of repairing storm damage, Reedsburg territory, signal 226 at stop Reedsburg, Sig. **Mtnr.** on vacation. The above overtime slips were returned unapproved by Mr. H. L. **Tomkins** on May 29, 1973.

(b) Carrier should now be required to compensate Mr. Krueger for the amount of time claimed above. /Carrier's File: **79-8-137/**

OPINION OF BOARD: The five claims involved in this dispute all developed from Carrier's realignment of Signal Maintainers and the consolidation of Signal Maintainer's territories. This identical or related issue has been considered by this Board recently in six different Awards with five different Referees participating. In all those Awards the principal issue dealt **with** herein has been denied or dismissed by the Board. The Awards are: 20630, 20746, 20796, 20797, 20802 and 20811. Petitioner, in its submission, states that the issues considered in Awards 20796, 20797 and 20802 are similar to the instant case, in that they also involved a request for additional half-time pay under Rule 20 (a).

The Organization also raises in this dispute the issue of possible violation of the Vacation Agreement in that some of the incidents occurred while the Maintainer who had previously worked in the territory (prior to realignment) was on vacation. We note however, that in the absence of specific evidence indicating a burden in excess of the 25% on any one employee as a direct consequence of assuming duties of a vacationing **employee**, the issue assumes the same dimensions and requisite consideration as the remainder of the Claims.

The Organization, in its arguments, raised the question of the intent of **the** Carrier in making the changes. The Organization cited prior doctrine (Awards 139 3301 and 3396) which held that ". . . **the** intent with which an act is done, maybe, and usually, is determined by the effect resulting from it." We do not perceive any evidence in the instant dispute which would lead us to the conclusion that the Carrier made the changes for the purpose of evading obligations under **the agreement, and** that conclusion is not changed by the obvious implications of the instant Claims.

Since the issues herein have previously been considered by this Board and the contentions of Petitioner have been rejected consistently, we must follow the doctrine of res adjudicate. The Claim will be denied.

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

Claims denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

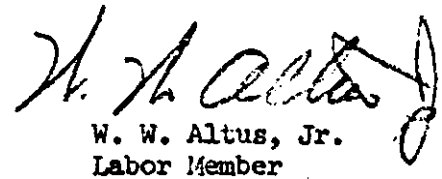
ATTEST:

A.W. Paulos
Executive Secretary

Dated at Chicago, Illinois, this 12th day of December 1975.

Dissent to Award 20893, Docket SC-20819

Cur Dissent to Awards here cited by the Majority should be noted.


W. W. Altus, Jr.
Labor Member