

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21248
Docket Number SG-21286

Walter C. Wallace, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad **Signalmen**
(The Western Pacific Railroad Company)

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad **Signalmen** on the Western Pacific Railroad Company:

On behalf of Signalmen E. L. Field and K. L. **Heineman**, headquartered **Oroville Signal Gang**, that they should be classified and paid as **TCS Signalman-Maintainer** since they assumed the **position** of Signalman they held when the claim was initiated March 10, 1974.

[Carrier's file:.. . Case. NO. 9761-1974-BRS].

OPINION OF BOARD: This claim on behalf of **Signalmen** E. L. Field and K. L. **Heineman** is that they should be classified and paid as **TCS Signalmen - Maintainer**. The position of "**Signalman**" is the lowest **rated** journeyman position in the **Signal Department** with **pay** at \$5.74 per hour and the duties **involve** construction, shop repair and the testing of **signal system** components. Generally, these duties are performed in **8 gang** under the direction of a **foreman**. The position of **TCS Signalman - Maintainer** carried a rate of \$5.83 per hour and is required to maintain the various components of the signal system in the Traffic Control System (TCS) territory and are required to be proficient enough to perform such duties without supervision.

The **claim** is premised upon the provision of the agreement between the **parties** related to three different foremen positions including the "**Signal Maintenance Foreman**" wherein it states in part:

"(b) Signal Maintenance Foreman - An employee assigned to **perform** work **generally recognized** as **signal** work as **outlined** in the **Scope of this Agreement** and to **supervise** **TCS signalmen - maintainers designated to work under his direction.**" (emphasis added)

Because claimants **had** been working under designated "**Signal Maintenance Foreman**" It is their contention they **are** entitled to the higher **classification TCS-Signalman-Maintainers**. We do not agree.

In order to sustain this claim we would have to find that this **foreman** was not permitted to supervise **anyone other than 8 TCS signalman-maintainer** and he could not supervise a **signalman**. There is no such **language** in the rule to support this view. Moreover, we cannot agree that this rule was intended to establish a rate of pay **depending** upon the

position of the supervisor. This would be a departure from the long standing principle, supported by Awards of this Board, that the rate of pay for any position is governed by the duties performed. See Awards 12398 (Referee Wolf); 13765 (Referee Weston); and 14457 (Referee Zack).

The record here is devoid of proof that the claimants here performed the duties of the higher classification during the period under consideration. Absent such evidence we must hold claimants have failed to meet their burden of proof. Accordingly, their claims must be dismissed.

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

The Agreement was not violated.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:


Executive Secretary

Dated at Chicago, Illinois, this 20th day of September 1976.