

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DMSION

Award Number 21476
Docket Number SG-21258

Dana E. Eischen, Referee

(Brotherhood of Railroad Signalmen

PARTIES TO DISPUTE: (

(Robert W. **Blanchette**, Richard C. Bond and
(John H. **McArthur**, Trustees of the Property of
(Penn Central Transportation Company, Debtor

STATEMENT OF CLAIM: Claim of the General **Committee** of the Brotherhood of Railroad Signalmen on the Penn Central Transportation Company (former New York Central Railroad Company-Lines West of **Buffalo**):

SYSTEM DOCKET W-48

WESTERN REGION - CHICAGO DMSION

Appeal of claim presented initially by the Organization's **Local** Chairman D. E. Brown on behalf of signal employes affected who hold seniority on the Chicago Terminal Signal District to the Division Engineer J. R. Beard on February 3, 1974, such claim account their starting time was changed arbitrarily by the carrier and they *were* denied their displacement rights as provided in Rule 30(d) of the current working agreement.

OPINION OF BOARD: The facts out of which this dispute arose are not contested. Pursuant to Federal law passed in response to the energy "crunch" during the Winter of 1973-74 the Nation went **on mandatory year-round Daylight Savings Time (DST)** in January 1974; rather than, as had been customary, in April through October. We take arbitral notice of the fact that the days are shorter in January than in April and **recall**, for example, school children wending their way to classes and awaiting buses in darkness during the late Winter of 1973-74. Likewise, the change to D.S.T. in January affected **many** workers who thereby found themselves traveling and reporting to work in the dark pre-dawn hours. The instant dispute involves a change in reporting time growing out of this situation for certain employes in Carrier's Chicago Terminal Signal District.

The employes herein involved were employed in Carrier's Signal Department and, prior to January 6, 1974 their assigned hours were 7:00 am to 3:30 pm Central Standard Time (C.S.T.). Effective January 6, 1974 by the "Daylight Savings Time Act of 1973" Standard Time was advanced one hour thus giving Claimants' assigned hours of 7:00 am to 3:30 pm Central Daylight Savings Time (D.S.T.). The net effect of the legislature was no change in "clock time" for Claimants but a one-hour earlier "solar time" for reporting to work. (i.e. Clock time of 7:00 am DST was the equivalent of a solar time of 6:00 AM). Because at 6:00 am solar time (7:00 am DST) it was **still** dark in January 1974, Carrier on January 4, 1974 gave oral instructions to Claimants to report at 8:00 am D.S.T. beginning January 7, 1974. Thereafter, by Supervisors Bulletin dated January 5, 1974 the Claimants were notified as follows:

"Chicago, Illinois
January 5, 1974

TO ALL CONCERNED:

Confirming verbal advice given on January 4, 1974, the starting time on the following positions will be as indicated below: Effective January 8, 1974.

8:00 A.M. - 12:00 P.M.
12:00 P.M. - 12:30 P.M. (Lunch)
12:30 P.M. - 4:30 P.M.

T & T Cable Splicers	Relay Inspectors
T & T Maintainers	Lead Signal Maintainers
Electronic Technicians	Signal Mechanics
Hot Box Technicians	District Lineman
Signal Inspectors	Radio Maintainers
C & S Inspectors	Maintainers C & S
C & S Foremen	Signalmen
Wire Chief	

Trick positions at Elkhart and Englewood Humps are excluded also Radio positions at Elkhart.

The change in starting time is due to the adoption of Year Round Daylight Saving Time under recent Federal Law.

Received at B & O on Jan 16.

C. S. Paden
Supervisor C&S, Chicago"

By letter dated February 3, 1974 the instant claim was filed alleging as follows:

"In the afternoon of January 4, 1974, I was verbally ordered to report to work on the seventh of January at 8:00 am (D.S.T.) instead of 7:00 a.m. (D.S.T.), as my advertised assignment states. This was done over the entire Chicago Terminal territory on Penn Central. The men affected by this were denied their option to exercise displacement rights. Then on January 16, 1974, we received a bulletin stating, starting time of positions, effective January 8, 1974.

(1) Therefore the undersigned presents the following claim.

(a) Carrier violated rule 5 and 30(d), of Agreement of March 1, 1951 as amended between former New York Central Lines West and Brotherhood of Railroad Signalmen of America.

- "(b) Claim that this arbitrary action, without cause of reason and not having the consent of the organization, also extended the end of tour of duty from 3:30 p.m. to 4:30 p.m., thereby placing these employees on overtime status in accordance with Rule 10.
- (c) Claim that the Carrier now be required to pay each and every employee, one (1) hour at the time and half rate of pay, for each **and** every assigned working day, beginning on January 7, 1974 and continuing until such time that this illegal practice is discontinued, and that immediately, each employee **be given** his option of displacements rights."

It is undisputed that all Signal Department employees on the Chicago Terminal Signal District were notified by written bulletin dated **February 1, 1974** that effective **February 11, 1974** their starting time would revert to 7:00 am (D.S.T.). Therefore, the **8:00 am** (D.S.T.) starting time was in effect only from January 8 to February 10, 1974 **and** the claim period is so restricted.

Rule 5 of the Agreement requires inter alia that starting time for Claimants be between the hours of 6:00 A.M. **and** 8:00 A.M. and that starting time be fixed by bulletin and not changed without **48** hours notice to affected employees. As we understand this record the "new" starting time was **8:00 am** and Claimants did receive the requisite notice. We can find herein no violation of **Rule 5**.

Rule 30 provides in pertinent part as follows:

"**RULE 30**

An **employee** may elect to retain his **position** or within **14** consecutive calendar days exercise displacements rights if changes occur in any of the following conditions of his position:

- (d) Starting time, **except** due to Daylight Saving Time.

***"

The crux of the dispute regarding **Rule 30(d)** is the Organization's insistence that the change in starting time from 7:00 am (DST) to **8:00 am** (DST) was not "due to Daylight Savings Time". In this connection the Organization **apparently** asserts the change was due to arbitrary and inconsistent determination of operating convenience by Carrier and constituted a violation of past practice whereby "clock time" had never been changed notwithstanding the annual conversion to a new "solar **time**" under Daylight Savings **Time**.

Upon careful reflection we cannot agree **with** the Organization's reading of the Rule and the facts of record. The language of **Rule 30(d)** is clear and unambiguous **and must** be interpreted and applied by us as written without recourse to practice. See Award 20643. We find that the phrase "due to Daylight Savings Time" **when given** its plain **and** ordinary meaning must cover the change of starting time which affected Claimants in January 1974. Accordingly, that change was within the single exception to Rule 30 set forth in **30(a)** and we can find no Rules violation therein. **Finally**, we are not persuaded that the disputed change of starting time affected a violation of Rule 10. Having found no Rules violation in this record we must conclude the claim is without Agreement support. Accordingly we have no alternative but to deny this claim.

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

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 31st day of March 1977.

