

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21621
Docket Number SG-21622

David C. Randles, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad **Signalmen**
(**Houston Belt and Terminal Railway Company**)

STATEMENT OF CLAIM: Claims of the General **Committee** of the Brotherhood of Railroad **Signalmen** on the **Houston Belt & Terminal Railway Company**:

On behalf of Signal **Foreman** G. S. Drake for an additional **payment** of 5 hours at **time** and one-half his straight time hourly rate, \$1336.48 per month, the number of hours he was required to perform work of his gang outside working hours on January 19, 1975 this **payment** due under Rule 305 of the **Signalmen's Agreement**. [General Chairman file H-206]

OPINION OF BOARD: G. S. Drake, the claimant, is a **monthly-rated Signal Gang Foreman** with assigned hours from 8:00 A.M. to 4:00 P.M. Monday through **Friday** with Saturday and Sunday his rest days. On Sunday, January 19, 1975, Signal Gang **Foreman** G. S. Drake worked with **signal gang** from 6:00 P.M. until 11:00 P.M. performing emergency signal work due to a crossing signal being hit by an **automobile**.

The **claim** of the Organization is that the **claimant** should be paid five hours at **time and one-half** his straight **time** hourly rate, \$1336.48 per month, for the time he spent working on January 19, 1975, which was **beyond** his **normal** working hours. To substantiate the claim, the **Organization** cites Rule 305 of the **Signalmen's Agreement**: Rule 305. "When overtime service is required of a part of a signal **gang**, the senior **employee** of the gang of the class involved, who are available and desire the work, will be given preference to it. The **foreman** assigned to such **gang** shall work and be **paid** overtime rate for the **number** of hours his gang works." The Organization notes specifically the last sentence, "The for- assigned to such gang shall work and be **paid** overtime rate for the number of hours his gang works.", in that the **claimant** in the **instant** matter is a **foreman**.

The Carrier counters the **claim** of the Organization by citing Rule 602 of the **Signalmen's Agreement** which is a **special** rule relating to **monthly** rated **employees** and is directly applicable to the **claimant** who is, in fact, **monthly** rated. The Carrier contends that **Rule 305 is a general rule and that Rule 602 is a special rule** noting by referencing past decisions of **this Board** that a **special rule** supersedes a general rule.

The **Board** in determining its decision in this matter shall consider Rule 602 in its entirety and then relate it to Rule 305.

"Rule 602:

(a). The following employees will be paid on the basis of a monthly rate as provided in Rule **600**.

1. Signal Inspector
2. Signal Draftsman and Signal Designer
- 3. Signal Maintenance Foreman**
- 4. Signal Gang Foreman**
5. Signal Maintainer
- 6. Reliefman - Technician**

(b). **Employees** paid on basis of **monthly** rate **will** not be required to perform ordinary maintenance or construction work on the sixth or seventh day (rest days) or holidays of their work week, but will perform emergency work as necessary to restore signal system interruptions. Time will be deducted if an **employee** lays off of his own accord.

(c). In the event such employees are required to perform ordinary maintenance or construction work on the sixth or seventh day or holidays of their assigned work week, they will be additionally compensated at overtime hourly rate. **Hourly** rates for **monthly** rated employees **will** be computed by dividing **monthly** rate by **211 2/3** hours. Future wage adjustments **will** be made on basis of **211 2/3** hours. If it is found that this rule &es not produce adequate compensation for certain of these positions **by** reason of the occupants thereof being required to work excessive hours, the salaries of these positions may be taken up for adjustment."

Rule 602 is a special rule delineating conditions of **employment** for monthly rated employees. It is specific in its delineation of when such employees shall be paid an overtime rate and also that such employees **will** perform emergency work as necessary as part of their monthly compensation. The claimant herein worked on an emergency basis on his rest day. Rule **602** (b) specifically states that he will not be paid Overtime. If it was not emergency work, he would be **paid overtime - Rule 602 (c)**.

By being specific when **monthly** rated **employees** shall be paid overtime, and when they shall not, the Agreement, in and of itself, excludes said **employees from** overtime payment as delineated in **Rule 305** which is general in nature.

In the instant matter the Contract not only directly expresses that **monthly** rated **employees** will not be paid overtime for emergency overtime work but also **directly expresses that they shall** be paid for **overtime** for ordinary maintenance or construction work beyond their **normal** work week.

Eased upon the specificity of Rule 602 and the fact of its being a Special Rule taking precedence over Rule **305**, a General Rule, the **Board** determines that the Contract was not violated.

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

The claim is denied.

NATIONAL RAILROAD ADJUSTMENT BOARD

By Order of Third Division

ATTEST:


Executive Secretary

Dated at Chicago, Illinois, this 29th day of July 1977.