

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21858  
Docket Number SG-21772

James F. Searce, Referee

**PARTIES TO DISPUTE:** (Brotherhood of Railroad Signalmen  
(Southern Pacific Transportation Company  
(Pacific Lines)

**STATEMENT OF CLAIM:** Claims of the General Committee of the Brotherhood of Railroad Signalmen on the Southern Pacific Transportation Company:

**Claim No. 1: Carrier's file: SIG 152-350**

(a) The Southern Pacific Transportation Company (Pacific Lines) violated the current Memorandum of Agreement between the Southern Pacific Transportation Company (former Pacific Electric Railway Company) and its employees represented by the Brotherhood of Railroad Signalmen, dated May 6, 1970 particularly paragraphs 3 and 4.

(b) Mr. G. Bozaan be allowed five and one half hours at the time and one half rate for January 3, 1975.

**Claim No. 2: Carrier's file: SIG 152-351**

(a) The Southern Pacific Transportation Company (Pacific Lines) violated the current Memorandum of Agreement between the Southern Pacific Transportation Company (former Pacific Electric Railway Company) and its employees represented by the Brotherhood of Railroad Signalmen, dated May 6, 1970, particularly paragraphs 3 and 4.

(b) Mr. G. Bozaan be allowed six and one half hours at the time and one half rate for January 7, 1975.

**Claim No. 3: Carrier's file: SIG 152-352**

(a) The Southern Pacific Transportation Company (Pacific Lines) violated the current Memorandum of Agreement between the Southern Pacific Transportation Company (former Pacific Electric Railway Company) and its employees represented by the Brotherhood of Railroad Signalmen, dated May 6, 1970, particularly paragraphs 3 and 4.

(b) Mr. J. Olech be allowed four hours at the time and one half rate for January 8, 1975, and also five hours at the time and one half rate for January 14, 1975.

**OPINION OF BOARD:** Carrier maintains four Bonder and Welder crews, one for each district **on the former** Pacific Electric Railroad Property. On the dates of January 3, 7, 8 and 14, 1975, a regular occupant of a Bonder and Welder crew was absent due to **jury** duty and there was no one available holding seniority in the Bonder and Welder classification **to fill this** temporary vacancy. Accordingly, in following a long established practice, Carrier used a Signalman, Mr. Meaders, who was regularly assigned to Signal Gang #3 to fill these vacancies. **There is no dispute** concerning Carrier's temporary **assignment** of Mr. Meaders to these assignments. The dispute centers on Mr. Meaders performing **overtime** work along **with other** members of the Bonder and Welder crew which was **continuous** with the regularly assigned hours of **the** crew. Claimants herein, members of bonder and welder gangs from adjacent districts, contend **that** they should have been called to perform the **overtime work** here in question.

In case after case decided by this Board, **we have** repeatedly ruled **that** in order to establish a **right** to relief sought in the stat-t of claim, **the** Petitioner **must firstly** cite **provisions of the agreement which** prohibited Carrier from acting in the **manner** which Petitioner challenges and **secondly**, the Petitioner **must** show how Carrier's action violated the cited prvisions of the **contract**. Unless there **exists** a contractual prohibition precluding Carrier from taking **the** action disputed, we have no authority under the Railway Labor Act to find for Petitioner.

In applying these principles to the facts of **the** instant case, **we** can find no provision of the controlling agreement **between** the parties which prohibited **the** action here in dispute.) In fact, Signalman Meaders' **performance of overtime with** the bonder and welder crew **on the** claim dates was in accordance with provisions of **the** May 6, 1970 **Memorandum** of Agreement between the parties, which prvides in **relevant** part:

"If work on a particular job during regular assigned hours extends into overtime, crew in whose District work is being performed will **remain on** overtime."

Under the peculiar facts and **circumstances** of this case, we can see **no** violation of the controlling agreement and the **claim** must be dismissed,

**FINDINGS:** The **Third** Division of the Adjustment Board, upon the **whole** record and ail 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 claim be dismissed.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of **Third** Division

ATTEST: *A.W. Pauls*  
Executive Secretary

Dated at Chicago, Illinois, ~~this~~ 18th day of **January 1978**.