

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22089  
Docket Number SG-21972

George S. Roukis, Referee

(Brotherhood of Railroad Signalmen  
PARTIES TO DISPUTE: (  
(Norfolk and Western

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

(A) The Carrier violated Article 1, Section 5 (a) of the January 29, 1975 Agreement when on the first pay period of March 1975, it used the time and one-half rate of \$9.4650 per hour **instead** of rounding off to the nearest cent as provided for in Article 1, Section 5 (a): Hourly Rates - Add the specified per cent to the existing **hourly rates** of pay. Round the resulting hourly rates to the nearest whole cent. Fractions less than one-half cent shall be dropped, and fractions of one-half cent or more shall be increased to the nearest full cent.

(B) **The** Carrier now pay Signal Maintainer **B. V. Clyburn** the difference between \$9.4650 the overtime rate that was paid him in the first pay period of March 1975 and \$9.47 per hour as provided for in the January 29, 1975 Agreement.

This claim is filed as a continuing **violation** in accordance with Article V (3) of the August 21, 1954 Agreement.

OPINION OF BOARD: Petitioner in this instance is asking this Board to interpret the language of Article I, Section **5(a)** of the National Wage and Rules Case Agreement of January 29, 1975 which provides:

"Section 5 - Application of Wage Increases

**"The** increases provided by Sections 1 through 4 above shall be applied as follows:

**"(a) Hourly Rates** - Add the specified percent to the existing hourly rates **of** pay. Round the resulting hourly rates to the nearest whole cent: Fractions less than one-half cent shall be dropped, and fractions of one-half cent or more shall be increased to the nearest full cent."

The specific reference here is to the **overtime** rate of pay which is computed on the basis **one** and one-half times the basic pro rata hourly rate.

**Based** upon the record in this case, it is obvious that petitioner has not made a prima facie case that **any** violation of the **provisions** of Section 5(a) of the January 29, 1975 **National** Agreement has occurred. Neither have they **shown** that the method employed by the Carrier to compute the overtime rates of pay for **employees** represented by the *Signalmen's organization* is in violation of **any** rule of the Agreement, National or otherwise. In short, the burden of proof which is petitioner's to bear has not been met in this instance.

Therefore, the claim as presented *must* be and is 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**

Claim denied.



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

ATTEST:

A. W. Paulos  
Executive Secretary

Dated at Chicago, Illinois, this 31st day of May 1978.