

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22153
Docket Number SG-22109

Joseph A. Sickles, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(**Louisville** and Nashville Railroad **Company**)

STATEMENT OF CLAIM: "Claim of the General **Committee** of **the** Brotherhood of Railroad Signalmen on the Louisville and Nashville Railroad Company:

On **behalf** of Signal Maintainers J. F. **Damron**, R. N. Freeman, J. C. Anderson, L. M. **Callis**, and F. E. Williams, for 4 hours each at their respective time and one-half rates, account being assigned to assist Signal Maintainers at Radnor Yard **in** re-shoeing the group retarder 9-16 **on** September 9, 1975."

[Carrierfile: G-265-11, **G-265]**

OPINION OF BOARD: Each Signal Maintainer Claimant is assigned to a specific signal maintenance territory with designated headquarters. On **the** claim date, Claimants suspended regular work and reported to **Radnor** retarder yards to assist for four (4) hours. As a result, a claim was filed for four (4) hours' **overtime** pay, **asserting** a violation of **Rule** 27(a) and Rule 14:

"(a) Except in emergency, **an** **employee** will not be changed from his assigned position or from one shift to another. If changed from **one** position to another within **the** hours of his regular assignment, he shall be paid at the straight time rate and in accordance with **the** provisions of this agreement for **such** hours but shall not be paid for time not worked **on** his regular **bulletined** assignment. If changed from one shift to **another** he shall be paid wertime rate and **in** accordance with **provisions** of **this agreement** until returned to his regular shift but shall **not** be paid for time not worked on his regular bulletined assignment. This rule **shall** not apply to employees exchanging positions or shifts for **their** own convenience nor when exercising seniority."

"RULE 14. ABSORBING OVERTIME

Employees will not be required to suspend work during regular working hours to absorb **overtime.**"

As we read **the** record, we do not find evidence which suggests that **an** emergency situation dictated Carrier's action. Thus, argues Claimants, the first sentence of **Rule 27(a)** precludes **Carrier** from requiring an **employee** to **change** from his assigned position.

Carrier notes that the **Claimants** were assisting other Signal **Maintainers** on another territory and all Claimants received pay for a full eight (8) hours at the straight time rate on the claim date.

We find nothing **of** record which indicates that any of the **employees were changed** from one shift to another.

It becomes apparent, from a review of the documents, that Claimants equate a direction to perform work in another territory as a change **from** "his assigned position." **Thus**, the claim for **time** and one-half does not generate from Rule 27, as such, but is, in actuality, a "**penalty** payment." (See Page 1 of Brotherhood Exhibit 5).

In support of its position, Carrier relies upon various **documents** which, it urges, shows a consistent past practice. claimants seek to distinguish, and thus minimize, the documents.

While we will concede that Rule 27(a) may be susceptible to conflicting interpretations, in order to accept the meaning placed upon the Rule by the Claimants, we would require a stronger showing than is evident here that the parties intended that the use of a Signal Maintainer, **on** his-normal shift, to **assist another employee** in a different territory is a change from assigned position. Of course, our Award is limited solely to **the** factual circumstances before us and does not profess to dispose of future disputes with disparate factual **circumstances.**

We find no merit in the assertion that Rule 14 was violated. See Award 18455, citing **Award** 16611.

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 claim be dismissed.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: *FA. We*
Executive Secretary

Dated at Chicago, Illinois, ~~this~~ **31st day of July 1978.**