

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22623
Docket Number SG-22284

James F. **Scearce**, Referee

PARTIES TO DISPUTE: ((Brotherhood of Railroad Signalmen
(Missouri Pacific **Railroad Company**)

STATEMENT OF CLAIM: **"Claim** of the General Committee of the Brotherhood of Railroad Signalmen on the Missouri Pacific Railroad Company (T&P):

Claim on behalf of Signalman B. **P.** Higgs, Gang 1681, head-quartered at Centennial Yard, Fort Worth, Texas, for additional payment of **twenty-four** hours at time and one-half his straight time hourly rate of \$6.95 per hour for service on the Arlington maintenance position on the holiday, May 31, 1976; and additional payment of twenty-four hours at time and one-half the Leading Signalman's straight time hourly rate (\$1501.00 per month) for service at Centennial Yard on the holiday, July 5, 1976. This payment due under **Rule 28 (m)** of the *current* Signalmen's Agreement, as amended."

/Carrier file K 315-125/

OPINION OF BOARD: The record indicates that the Claimant - a **Signalman** - was directed to protect vacancies of monthly-rated Signal Maintainers for the periods of **May** 21 to June 21, 1976, and June 28 to July 5, 1976. Holidays fell during both periods - May 31 and July 4. Claimant gave service during such periods and was covered, according to the Organization, by **Rules 28(m)** - Holiday Service - and 18, quoted hereafter:

Rule 28(m) - Holiday Service

"Service performed on the following legal holidays, namely, New Year's Day, Washington's Birthday, Decoration Day, Fourth of July, **Labor** Day, Thanksgiving Day and Christmas (provided when any of the above holidays fall on Sunday, the day observed by State, Nation or by proclamation shall be considered the holiday), shall be paid for at the rate of time and one-half, except that this paragraph shall not apply to monthly rated **employees** covered by **Rule 48(b)**."

Rule 18

"When work not **covered** by this agreement is done outside of regular work period by employees paid on either a monthly or hourly basis, and extra compensation is agreed upon for the performance of such work overtime rules of this agreement will not apply."

In contrast the Carrier points to Rule 48(b) cited (in pertinent part) hereafter:

Rule 48

"(b) 1. Signal Inspectors, Foremen, Leading Signalmen, employees assigned to the maintenance of a section or plant, and employees regularly assigned to perform road work shall be paid on a monthly basis at applicable rate set forth in Rule 47 which shall constitute the compensation for all service rendered except as hereinafter provided in this rule and in Rule 18. No **time** will be deducted unless the employee lays off of his **own** accord.

* * *

4. Monthly rated **employee** shall be assigned one regular rest day per week, Sunday if possible. **Rules** applicable to other employees who are subject to the **terms** of this **agreement** will apply to service which is performed on such assigned rest day.

5. Ordinary maintenance or construction work shall not be required of monthly rated employees on the sixth day of the assigned work week, which ordinarily will be Saturday."

It is sufficiently clear that an employee assumes all of the circumstances attendant to a position during the period he is required to protect such position. Here, the Claimant was entitled to all benefits inuring to the position of Signal Maintainer, **including** those **applicable** to the two holidays **which fell** within the period. Such-benefits, since the **Signal Maintainer** position is monthly-rated, are different from those of a Signalman.

Contrary to the Organization's claim, we find **no** basis to segregate the holidays during such periods for application of a Signalman's benefits.

Of more potential pertinence is the Organization's contention that the Claimant was directed to "standby" for service on such holidays; to substantiate this the Organization offered an undated "note" by the Claimant, which the Carrier purports to have first seen well after the initiation of the claim:

"Dear Sir,

I would like to restate again that my supervisor Mr. W. T. Stockstill told **me** to take calls on these two holidays and that in his opinion these holidays were to be included as part of **my** vacation relief assignment. I had to work an 8 hr. shift on July 5 on instructions from **Mr. Stockstill."**

We are unable to give any force and effect to this claim, considering the method and timing of its issuance. **An** unsupported assertion, as here, cannot be held to possess the quality of proof that is required to substantiate such a 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 **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.

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Claim is denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: *A.W. Paulos*
Executive Secretary

Dated at Chicago, Illinois, this **9th** day of **November 1979.**

