

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23480
Docket Number SG-23863

John B. LaRocco, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(Seaboard coast Line Railroad company

STATEMENT OF CLAIM: "Claim of the General Committee of the Brotherhood of
of Railroad Signalmen on the Seaboard Coast Line Railroad:

(a) **Carrier violates** the current Signalman's Agreement, as **amended**,
particularly Rules 22 and 5.

(b) Carrier should now be required to compensate Assistant Signal
Maintainer A. D. **Middleton** the difference **between** top assistant rate of pay
(8.27) **and** the **Lead** Signal Maintainer rate of pay (9.45) which **amounts** to
\$47.20.

(c) Carrier should now be required to compensate Mr. **Middleton** the
difference between assistant, maintainer overtime rate (12.405) **and** Lead Signal
Maintainer (14.175) for service performed on June 14, 1979, and the difference
between Signal Maintainer **overtime rate** (14.010) and Lead Signal Maintainer
rate (14.175) for service performed on June 15, 1979. A total amount of \$4.56.

(General **Chairman** file: 37-A.D. Middleton - 79. Carrier file: 15-22(79-20) J) "

OPINION OF BOARD: The Organization alleges that the Carrier violated Rules 5
and 22 of the **applicable agreement** when it refused to **compen-**
sate claimant, an **assistant** signal maintainer, at the lead signal maintainer **rate**
of pay during the period from June 11 through June 15, 1979. According to the
Organization, the **claimant** actually performed the duties and assignments of the
regularly **assigned** lead **signal** maintainer who was on vacation during the period
in question at the **Carrier's Rice** Yard. **The** claimant urges **us** to award **him** the
difference in pay between the **rate** for an assistant **signal** maintainer and the
rate for a lead signal maintainer for the straight time and overtime hours he
worked during the week of June 11, 1979.

The Carrier contends it has no absolute **obligation under** the National
Vacation Agreement to fill a vacation vacancy, and even if it had decided to
temporarily assign a replacement to the Lead signal **maintainer position**, the
Carrier would have filled the vacation vacancy with the regularly assigned
signal maintainer (not the claimant). Furthermore, the **Carrier specifically**
denies the Organization's assertion that claimant performed any of the Lead
signal maintainer's duties and, assuming for the sake of argument claimant
did perform such duties, the Carrier never instructed the claimant to do **so**.

As authority for their contention that **claimant** is entitled to a higher rate of **pay**, the **Employees** cite Rule 22 which states:

'When an employee is required to fill the **place** of another employee receiving a higher rate of pay, he shall receive the higher rate; but if required to fill temporarily the place of an employee receiving a Lower rate, his rate **will** not be **changed.**'

The Carrier justifies its action under Article 6 of the National Vacation Agreement which follows:

"The carriers will **provide** vacation **relief** workers but the vacation system shall not be used as a device to make unnecessary jobs for other workers. Where a vacation relief worker is **not** needed in a given instance and if failure to provide a vacation relief worker **does** not burden those **employees** remaining on the job, or burden the employee after his return from vacation, the carrier shall not be required to provide such relief worker."

After carefully perusing the record, we rule that the Carrier could, under these circumstances, determine that a relief **worker** was not needed to **fill** the vacation vacancy. The Organization has failed to offer any **evidence** showing the one week absence of the lead signal maintainer Imposed a burden on the **claimant**. The **Carrier** neither expressly nor **impliedly** Instructed the claimant to perform the work of the lead signal maintainer. From the record presented to us, claimant **did** not **assume** any more responsibility than he ordinarily carries when performing his normal signal maintenance assignments. Since the **Carrier did** not temporarily appoint claimant to the lead signal maintainer position and since claimant did not actually fill the position, claimant was properly **compensated** for the work he performed during the week of June 11, 1979.

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

Award Number 23480
Docket Number SC-23863

Page 3

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 8th day of **January 1982.**