

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23900
Docket Number SG-23754

Carlton R. Sickles, Referee

PARTIES TO DISPUTE: { Brotherhood of Railroad Signalmen
(Seaboard Coast Line Railroad Company

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

Claim No. 1

(a) The Carrier has violated the current **Signalmen's Agreement** and particularly Rules **16** and **50**.

(b) Carrier should now be required to compensate Claimant W. McCollim for six **(6)** hours at his time and one half rate.

(Carrier file: **15-16(79-14)** J General Chairman's file: **18-@ McCollim-79)**

Claim No. 2

(a) The Carrier has violated the current Signalmen's Agreement and particularly Rule **16**.

(b) Carrier should **now** be required to compensate Claimant w. **McCollim** for **twelve (12)** hours at his time and one half rate.

(Carrier file: **15-16(79-16)** J General Chairman's file: **29-W McCollim-79)**

Claim No. 3

(a) The Carrier has violated the current **Signalmen's Agreement** and particularly Rules **16** and **50**.

(b) Carrier should now **be required** to compensate Claimant W. **McCollim** for eighteen hours and twenty five minutes **(18'25")** at his **time** and one half rate.

(Carrier file: **15-16(79-8)** J General Chairman's file: **10-W McCollim-79)**

Claim No. 4

(a) The Carrier has violated the current Signalmen's Agreement and particularly Rule **16**.

(b) Carrier should **now** be required to compensate Claimant w. **McCollim** for twelve hours and twelve minutes **(12'12")** at his **time** and one half rate.

(Carrier file: **15-16(79-18)** J General Chairman's file: **36-W McCollim-79)**"

OPINION OF BOARD: The **claimant** occupied a position which was paid at a monthly rate based on 213 hours.

The **provisions** of the working agreement are as follows: "(a) Electronic Signal Technicians and Retarder Yard Signal Technicians will be paid a monthly **rate** based on 213 Hours. Regular hours of assignment shall be eight (8) hours par day, five (5) days Par week. They will be allowed two (2) rest days per week, which will be Saturday and Sunday, if **possible**, and shall be off duty on holidays, **as** outlined in Rule 15-1/2, as amended by National Agreements. Services **on** Sunday and holidays and all **other service in excess** of 213 hours per month shall be paid for at the applicable **overtime** rate."

Subsequent to the establishment of the position, the Carrier discovered that the Claimant had been paid for overtime outside of his regular working hours and for service performed on Saturdays, and it discontinued such payments. Claimant seeks to re-establish the **payment** for these alleged overtime periods.

In Its **submission**, the Carrier outlines its **understanding** of the language of the Agreement as follows: "The **monthly** compensation paid **incumbents** of subject **positions** covers all service **performed** during the calendar month with the exception of work performed on Sundays and holidays. It also provides that work in excess of 213 hours per **month** will be paid at the **overtime** rate. It was anticipated that the employees would be allowed Saturday and Sunday as rest days, if possible, and it has been the practice to allow Saturday as a rest day whenever possible. However, it was contemplated that the **incumbents would** be compensated for these Saturdays when they do not work; and if their services are needed, then it is necessary that they report for duty. If the total **number** of aggregate hours, including Saturday Work, exceeds **213** in a given **month**, then they are compensated for any **overtime** hours made in excess of **213** hours. There are many **months** when the incumbents of those positions do not work an aggregate of 213 hours during the entire **month** and they still **receive 213** hours pay."

We are then called upon to decide whether the subsequent **interpretation** by the Carrier Which does not authorize payment for **overtime** and work **on** Saturdays unless it is for hours in excess of **213** per month is valid and whether the payment by the Carrier during the previous year of overtime for such employment would bar the employer from changing its interpretation of this provision. We **are** convinced that the language of the Rule is extremely clear and that there is no basis in this Rule for the payments which were made to the Claimant and, therefore, will not support the continuation of these payments.

We are further convinced that the fact that a mistake was made by the Carrier in making these payments until discovered does not establish such a precedent that it would overcome the clear language of the Agreement.

Claimant also seeks to be reimbursed for phone calls. A review of the **Awards** indicates that the mere making of a phone call does not in itself give cause to compensation unless the employee performs **some** action with respect thereto, and there is no allegation that this was the case here.

For these reasons, we will deny the 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 **Employee** 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: Acting Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant

Dated at **Chicago, Illinois**, this 26th day of **May 1982**.