

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23903
Docket Number SG-23418

Joseph A. Sickles, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(Southern Railway System

STATEMENT OF CLAIM: "Claim of the General **Committee** of the Brotherhood of Railroad Signalmen on the Southern Railway Company, et al.:

A. On behalf of Signal Maintainer A. W. Gentry, headquarters Tallapoosa, Georgia for **foremans** pay in addition to any pay he has received or due him because the Carrier refused to designate the **Claimant** to supervise this group of employees working together. Claimant is senior to the other employees of this group and should be paid at the foreman's rate of pay.

B. On behalf of Signal Maintainer J. A. Bush, headquarters Anniston, Alabama, for the difference in pay between that of a Signal Maintainer and Leading Signaller for all hours worked beginning March 12, 1979 and continuing for as long as Claimant works with this group of employees."

(General Chairman file: SR-118) (Carrier file: SG-402)

OPINION OF BOARD: According to the Employees, four (4) signal maintainers and four (4) signalmen temporarily cleared trees from a right-of-way. The claim seeks foreman and **lead** pay for the senior employees. On the property, Carrier denied that any employee was instructed to be in charge or to supervise.

It is clear that no employee was assigned as temporary Foreman or temporary Leading Signaller. But the employees assert that 8 men were worked as a "gang" and thus certain designations should have been made. As we view the record, the employees ask us to make certain presumptions which are contrary to the Carrier's assertions that no "gang" was ever established. The Employees, of course, have the burden of proof. We find no direct showing which contradicts the **Carrier's assertions** of the method of operation and we are not inclined to base an Award on speculation.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

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

A t t e s t Acting Executive Secretary
National Railroad Adjustment Board

By *Rosemarie Brasch*
Rosemarie Brasch - Administrative Assistant

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

