NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23921
Docket Number SG-24291

George S. Roukis, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(consolidated Rail corporation

STATEMENT OF CLAIM: "Claim of the General Committee of the Brotherhood of Railroad signalmen on the Consolidated Rail Corporation (former Lehigh Valley Railroad Company):

System Docket 1548
Atlantic Region-Lehigh Division Case ALSI-5-80

On behalf of Assistant Signal Maintainer M. Springer for four (4) hours at the time and one half rate account not used for overtime at Steel Tower on May 1, 1980."

OPINION OF BOARD: Claimant contends that Carrier violated Article 2, Section 10, Paragraph K of the controlling Agreement and Articles 5 and 6 of the Calling Procedures Agreement vhen it called a Signal Maintainer on May 1, 1980 from an adjacent territory to investigate a track indication within interlocking limits at Steel Tover. The Maintainer performed service from 12:45 A.M. to 4:45 A.M.

Carrier argues that it was consistent with the aforesaid Agreements to use a Signal Maintainer or a Signalman to investigate the trouble in the interlocking system, since only an employe with seniority in these position classifications could perform this type of work. It contends that Claimant held no seniority as a Signalman or Signal Maintainer and thus, was Ineligible for this call.

In our review of this case, we agree with Claimant's position, but only to the extent that our decision singularly applies to this factual situation. Prior to the June 18, 1981 Letter of Understanding, wherein the parties had agreed that the term "qualified employes" as used in Item 5 of the Calling Agreement, shall mean employes currently working in the Signalman/Maintainers class qualified to perform work, Carrier had permitted Assistant Signalmen at the Steel Tower situs to be placed on the call list for maintainers work and this indisputable practice must be judicially recognized for purposes of equitably resolving this grievance. The call list at the time Signal Maintainer J. Decker vas used in lieu of Claimant included the Assistant Signalman's position and Claimant was entitled to be called for this work. The June 18, 1981 Letter of Understanding, of course, pointedly changed this practice, but it did not negate the instant claim. The claim will be sustained because at the time and place in question, the call list included the Assistant Maintainers who had a right to be called for Maintainers work.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record alla all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier and the Employes involved in this dispute are respectively Carrier and Employes 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 violated.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: Acting Executive Secretary
National Railroad Adjustment Board

By Rosemarie Brasch
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 30th day of June 1982.

RECEIVED