

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number **24496**
Docket Number **SG-24561**

Edward L. **Sumtrup**, Referee

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

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

(a) Carrier violated the Signalmen's **Agreement**, particularly Rules **4** and **37** among others as well as the established past practice of using Signal Maintainers assigned to John Sevier Retarder Yard in seniority order, of the class needed, for overtime work, when they used Assistant Signal Maintainer C. E. **Scalf** to work overtime on December 22, **1980** to fill the Second Shift Signal Maintainer's position **in** the retarder yard.

(b) Carrier should now be required to compensate First Shift Signal Maintainer D. E. Ridenour and Relief Signal Maintainer R. D. O'Brien for this loss of work opportunity in an **amount** equal to four (4) hours each at their overtime rate, in addition to any other pay they have received, because they were denied the right to perform **overtime** work in the retarder yard and because the Carrier used a junior employee to perform the overtime work." (General Chairman file: **SR-224**. **Carrier** file: **SG-493**).

OPINION OF BOARD: **The** instant case centers on the Organization claim that the Carrier assigned an Assistant Signal Maintainer rather than a Signal Maintainer to overtime work on December 22, **1980** to replace a Maintainer who was ill. Contention of the Carrier is that since the Assistant Maintainer was already scheduled to begin working the shift of the ill Maintainer in question when the latter was to start his vacation on December **25, 1980**, that it was appropriate to have the Assistant Maintainer begin his relief on December **22nd**, rather than December 25th. Since this implied a shift change for the Assistant Maintainer Rule **29** regulating overtime was activated.

A review of the record before the Board shows that Carrier erred in not following directives of the current Agreement as outlined by Rule 37(b). This provision states that senior maintenance employees **above** assistant class assigned to maintenance positions in a retarder yard should be given priority before any other qualified **employee** is called. From the record before it, it appears that Carrier argument is based on administrative convenience **rather than** contractual mandate.

Rule **46** cited by the Carrier in its ex parte submission, as well as Carrier reference to past practices represent new material not submitted during the handling of this case on property and as such cannot be considered by the Board (Third Division Awards 20178; **20841**; **21463**; **22054**).

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 Agreement was violated.

A W A R D

claims sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:



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Nancy J. Dever
Executive Secretary

Dated at Chicago, Illinois, this 3rd day of August 1983.

