

NATIONAL RAILROAD **ADJUSTMENT** BOARD

THIRD DIVISION

Award **Number** 24583
Docket Number SG-24367

Herbert L. **Marx**, Jr., Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(Louisville and **Nashville** Railroad Company

STATEMENT OF CLAIM: "Claim of the General Committee of the Brotherhood of Railroad **Signalmen** on the Louisville and Nashville Railroad Company:

On behalf of Signal Maintainer F. w. Wolf for pay for a **total** 19 hours and 30 minutes overtime on April 8, 10, 14, and 15, 1980 and on behalf of Signal Maintainer T. W. **Nalley** for pay for a total of 8 hours overtime April 10 and 15, 1980, account not used on vacancy in Strawberry Yard, Louisville, Kentucky, pursuant to agreement signed April 29, 1977, to become effective May 1, 1977." (Carrier file: G-265-9 G-30)

OPINION OF BOARD: Among positions in a group of Signal Maintainers assigned around the clock at Strawberry Yard, Louisville, was one relief position. This position in actuality provided relief for unscheduled Signal Maintainers on two days a week but not on the other three days.

Occupant of the relief position was absent for a period of time owing to an on-duty injury. Carrier filled the position with overtime on such days that relief for 24-hour-a-day coverage was required but did not schedule other Signal Maintainers on overtime to cover the remainder of the relief position's schedule.

The Organization argues that the Carrier was in violation of the May 1, 1977 Memorandum Agreement covering this operation which reads in pertinent part as follows:

'Where overtime is required of employees in the Louisville Terminals, or where an employee lays off duty, **or** where an employee needs assistance, it is agreed that the overtime will be assigned or the vacancy will be filled as follows:

A. As pertaining to Strawberry Yard: . . .

3. Shift maintainers shall have preference to vacancies occurring on the rest days of their assigned **shifts**. In all other instances of overtime or vacancies, seniority shall prevail among other shift and relief shift maintainers."

The Board does not agree that this Memorandum Agreement requires the Carrier to create overtime under the particular circumstances herein. The Carrier did provide for 24-hour-a-day coverage by scheduling overtime on two days. The introductory sentence to the Memorandum **Agreement** posits three conditions when "overtime will be assigned or the vacancy will be filled". The days on which the relief Signal Maintainer would have been on duty at the same time as another Signal Maintainer simply do not meet these prerequisites.

Carrier presented **uncontroverted** evidence that identical situations had been handled in the same manner without protest.

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

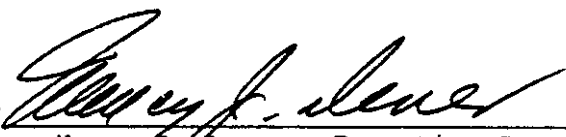
That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:



Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 15th day of December 1983.