

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24966
Docket Number SG-25018

Marty E. Zusman, Referee

(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(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 Rule 37 and Rule 4 among others, when Signal Maintainers E. L. Tucker, D. A. Riley and G. C. Morris cleared signal trouble on the assigned territory of Signal Maintainer Davis when he was available from 2 PM to 6:30 PM on November 22, 1981 and was being held for call under the provisions of Rule 37. The signal trouble was near MP S-166.2 on Signal Maintainer Davis' assigned territory.

(b) Carrier now be required to compensate Signal Maintainer T. C. Davis for four and one-half (4 1/2) hours at his overtime rate of pay that he was denied on November 22, 1981, from 2 PM to 6:30 PM because the agreement was violated and because Signal Maintainer Davis was available and was held for call under Rule 37 but was not called.

[General Chairman file: SR-277. Carrier file: SG-537]

OPINION OF BOARD: Claimant T. C. Davis, a Signal Maintainer, was held on call on November 21, 1981 and November 22, 1981. This fact is not disputed. Claimant was paid his pro rata for each day worked and was paid overtime and had used up his allowable hours of work under the Hours of Service law. The instant dispute arose when on November 22, 1981 at 8:00 a.m. and at 8:30 a.m. three signalmen were called up for service when trouble occurred on the Claimant's assigned territory. The specific dispute is derived from the fact that Claimant Davis was again available for service at 2:00 p.m. when the restriction imposed by the Hours of Service law was no longer in effect. Since the work begun on his territory was not completed until around 6:30 p.m., the claim is for four and one-half hours (4 1/2) at overtime pay in which the Claimant was not called while work was being performed on his territory.

It is the determination of this Board after a complete review of Rule 37, Rule 4 and a thorough consideration of the facts that the Carrier violated no rules. The work was begun on Claimant's assigned territory when the Claimant was restricted from service. This Board has previously held that a vacancy is treated as a single entity and therefore considered for its entire duration (Third Division Awards 11497, 15593). The Carrier had the right to expect those employees it had properly called to perform the work, to complete the work. There is nothing in the Agreement between the parties which requires or allows the Carrier to replace an employee who has begun work or add an employee after the work has begun, who is not needed, merely because somewhere in the course of the work the Claimant has become available. After full consideration of the facts before the Board in the case at bar, this claim is found to be without merit and denied.

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

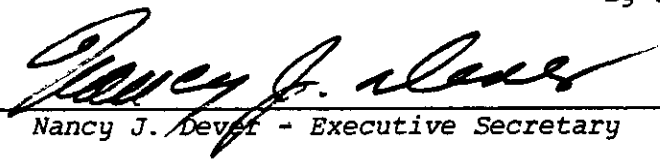
That the Agreement was not violated.

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 14th day of August 1984.

