

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25632
Docket Number SG-25452

Lamont E. Stallworth, Referee

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

STATEMENT OF CLAIM: Claims of the General Committee of the Brotherhood of Railroad Signalmen on the former Louisville & Nashville Railroad Company:

Claim No. 1. Carrier file: 15-54 (82-1032)

Claim on behalf of the senior signal maintainer on the Louisville Division who would be entitled to the work performed by Signal Tester Helper J. Hibbard December 11, 12, 13 and 19, 1981.

Claim No. 2. Carrier file: 15-54 (82-1034)

Claim on behalf of the senior signal maintainer-signalman on the Louisville Division who **would** be entitled to the **work** performed by Signal Tester Helper J. Hibbard December 14, 15 16, 17 and 18, 1981.

OPINION OF BOARD: The incident giving rise to this dispute materialized when Carrier assigned Signal Tester Helper J. Hibbard. assigned to the Signal Repair Shop, Louisville, Ky. to accompany a Signal Maintainer as an observer in order to familiarize himself with the Signal Maintainer work, equipment, and etc.

The principle duties of the Tester Helper are to assist the Signal Tester in making and recording the tests and inspections of Signal appliances as required by the Federal Railroad Administration's Rules and Regulations.

There are presently three Signal Testers and three Tester Helpers assigned to the former L & N RR Territory. The Signal appliances to be tested consist primarily of relays and cable and are located in instrument cases and houses over several thousand miles of trackage. Such housing is normally located eight to ten feet from the track and passing trains. The Tester and Helper work alone or, on occasion, with regularly assigned maintenance personnel.

H. L. Ethridge, the regular assigned Signal Tester. with whom Signal Tester **Helper J. Hibbard** was normally assigned to **work**, observed his vacation during the period from December 11, 1981, through December 19, 1981.

During the period of absence of Mr. Ethridge, Mr. Hibbard was unable to perform any **work** as a Helper on his owl and as a result, and as an alternative to furloughing him, he was instructed to accompany a Signal Maintainer in order that he could **become** familiar with a Signal Maintainer's **work**, the equipment and related duties inasmuch as he had been in the Signal Repair Shop for several years.

Mr. Hibbard was assigned to a Signal Maintainer as an observer and served as such during the major portion of the time so assigned. No vacancy existed which Mr. Hibbard or any employee stood to protect. All **work** performed during the periods in question was assigned to and could have been performed by the Signal Maintainer with whom Mr. Eibbard was assigned to accompany as an observer. Mr. Hibbard was compensated for all the dates involved at the rate of his regular assignment, Signal Tester Helper.

As a result of using Mr. Hibbard, the General Chairman, Brotherhood of Railroad Signalmen, presented Claims dated February 8, 1982 (Claim No. **1**), in behalf of the Senior Signal Maintainer on the Louisville Division for 10 hours December 11, 1981, 10 hours December 12, 1981, 10 hours December 13, **1981**, and 8 hours **December** 19, 1981, for a total of 38 hours pay at time and one-half rate.

The General Chairman also presented Claim dated February 9, 1982 (Claim No. 21, in behalf of the Senior Maintainer on the Louisville Division for 10 hours on each date of December 14, 15, 16, 17, and 18, 1981, for a total of 50 hours pay at time and one-half rate.

Claim No. 1 was denied by Supervisor-Signals R. W. Smith in a letter dated February 25, 1982.

Claim No. 2 was denied by the Supervisor-Signals D. **E.** Boatright in a letter dated February 25, 1982.

Both Messrs. Boatright and Smith declined the Claim as follows:

"Mr. Hibbard is a Signal Tester Helper and works on all seniority districts throughout the entire L & N system. During vacation time for the Signal Tester, with whom Mr. Hibbard normally **works**, Mr. Hibbard accompanied a Louisville Division Maintainer. There was no extra maintenance required and Mr. Hibbard did not replace any assigned signal maintenance position.

Your Claim is respectfully denied:

Under date of April 16, 1982, the General Chairman appealed the **Claims** to Carrier's Chief Engineer Signals, J. P. Powell. Claim No. 2 presented to and denied by Supervisor-Signals D. E. Boatright was declined by Mr. Powell by letter dated May 24, 1981. The Claims were progressed to the highest Labor Relations **Official** of Carrier and were denied. The Claims are now properly before the Board.

Upon a careful review of the record in its entirety, the Board concludes that there is not substantial evidence on the record to support the conclusion that Signal Tester **Helper J.** Eibbard did anything but observe **work** being performed. The Board further notes that it is the Organization's burden of proof in this matter. In the Board's opinion this burden was not met. Accordingly the Claim must be denied.

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

That the parties waived oral hearings;

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.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:



Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 19th day of September 1985.