

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26407
Docket Number X-26180

Eckehard Muessig, Referee

PARTIES TO DISPUTE: ((Brotherhood of Railroad Signalmen
(Missouri Pacific Railroad Company

STATEMENT OF CLAIM: "Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Missouri Pacific Railroad company:

On behalf of Signalmen, Ken Shires and Keith **Howry** who are assigned to Signal Gang 1800 located at Marlin, Texas, assigned hours 7:00 a.m. until 6:00 p.m., lunch period 12:00 **noon** to 1:00 p.m., rest days Saturday, Sunday and holidays.

(a) Carrier violated the May 1, 1964 Signalmen's Agreement, as amended, particularly Rule 307 when, on August 19, 20, 21 and 22 it required and/or permitted a signalman and two assistants assigned to signal gang 1800, who are junior signalmen to claimants of the same gang, to perform emergency signal repair work in and around Houston, Texas on the above dates.

(b) Carrier should now be required to compensate claimants, Ken Shires and Keith **Howry**, additional time at the signal mechanics overtime rate equal to the man-hours (thirty seven (**37**) hours) and (forty-five (45) minutes) of work performed by the junior signalmen and assistants, in connection with the referred to signal work as consequence of the violation and/or the loss of work opportunity. Carrier file **K315-260.**"

OPINION OF BOARD: The Claimants were assigned to Signal Gang 1800 headquartered at Marlin, Texas. This Gang worked four (4) ten-hour days (Monday through Thursday) in lieu of the standard five (5) eight-hour days. The Claimants live in Allen, Oklahoma, which is north of Marlin, Texas, by approximately 260 miles.

At the close of the work day on Thursday, August 18, 1983, all members of Signal Gang 1800 were asked to **leave their** telephone numbers with their Foreman so that they could be called, if needed, for overtime work as a result of hurricane damage in the Houston, Texas, area.

Subsequently, the Carrier, at approximately 10:00 P.M. on August 18, 1983, called some junior members of Gang 1800 to report for work in the Houston, Texas, area at 7:00 A.M., Friday, August 19, 1983.

The Organization essentially contends that the Claimants were senior to those called and were available for work. The Organization also argued that the fact that the Carrier requested their telephone numbers is evidence that the Carrier recognized that they were available for work. Consequently, these senior employees should have been called. The Organization also asserts that the Claim was untimely denied by the Carrier and, therefore, should be allowed as presented on that basis.

Turning first to the timely handling issue, the facts show that the Carrier's response was made within sixty (60) days of the date of receipt of the appeal. We join **numerous** holdings of this Division which have found that, if the date of the Carrier's denial **is** within sixty (60) days of the date of receipt of the appeal, it is considered timely.

Concerning the merits, the Claimants went off duty at 6:00 P.M. on Thursday. They then left to drive home to Allen, Oklahoma, approximately 260 miles from where they went off duty. Approximately four (4) hours later, junior employees were called to report for work the next morning. While the Organization's assertion that the Claimants should have been called pursuant to Rule 307 is understandable, the Rule provides preference to senior employees "who are available" and "when practicable to do so." This is a clear recognition of the parties that certain judgments may be made with respect to who is called. Implicit is that such judgments meet a standard of reasonableness. Under the facts and circumstances of this record, we find that such a test has been met and the Claim is 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 hearing;

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

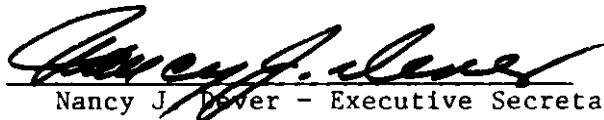
That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dover - Executive Secretary

Dated at Chicago, Illinois, this 13th day of July 1987.