

The Third Division consisted of the regular members and in addition Referee Elliott H. Goldstein when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen  
(Consolidated Rail Corporation)

STATEMENT OF CLAIM: "Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Consolidated Rail Corporation (CONRAIL):

Claim on behalf of R. G. Darling, 070868 Signalman C. & S., with headquarters at Project Trailer, West Fairview, PA.

A. Claim that the Company violated the current Agreement between Consolidated Rail Corporation and Brotherhood of Railroad Signalmen, particularly Rule 4-B-1 and Appendix 'H' Rule 1-C, when on the date listed below they used a helper C. & S., to fill the position of Maintainer C. & S. Enola Hump, which was Maintainer Darling relief day. This position was vacant due to the abolishment of the regular assigned relief Maintainer.

November 21, 1984. 7:00 A.M. - 3:00 P.M. 8.0 hours

B. Claim that since R. G. Darling, was not given the opportunity to perform the extra duty mentioned above, that he be paid a total of eight (8) hours at the time and half rate of pay for position of Maintainer at Enola Hump. Carrier File SD-2183."

FINDINGS:

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

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employes within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

On Wednesday, November 21, 1984, a Maintainer, C. & S., at Carrier's Enola Hump, Enola, Pennsylvania location, was on vacation. On this date, a Helper, C. & S., at Enola Hump was used for approximately thirty minutes to spike and unspike a switch. He was paid the Maintainer C. & S. rate of pay for his tour of duty in accordance with Rule 4-G-2(a).

Claimant, a Maintainer, C. & S., also assigned at the Enola Hump, was observing a rest day on that date. It is the Organization's position that Carrier violated the Agreement, particularly Rule 4-B-1 and Appendix "H", Rule 1-C, when it used a Helper, C. & S., to fill the position of signal maintainer on Claimant's rest day. The pertinent Rules provide as follows:

"4-B-1. Work performed by an employee on his assigned rest day, or days, shall be paid for at the time and one-half rate. Service performed on the second rest day of his assignment shall be paid at double the basic straight time rate provided he has worked all the hours of his assignments in that work week and has worked on the first rest day of his work week, except that emergency work paid for under Rule 4-B-2(b) will not be counted as qualifying service under this paragraph nor will it be paid for under the provisions hereof.

Appendix 'H', Rule 1-C. The number of such Signal Trainees on a seniority district shall be consistent with the requirements of the service. Nothing in this Agreement shall be construed as requiring the establishment or retention of any position of Signal Trainee, nor will Signal Trainees be used to take the place of Signalmen or Signal Maintenance."

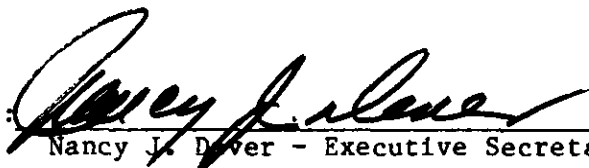
Based on our review of the foregoing Rules relied upon by the Organization, we find nothing which prohibits a Helper performing Maintainers' work. Absent evidence that there has been a violation of the Agreement, we must rule to deny this claim in its entirety.

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 2nd day of March 1989.