

The Third Division consisted of the regular members and in addition Referee Eckehard Muessig when award was rendered.

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

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

On behalf of T. M. Morris 045480, Maintainer C & S Trouble Truck, with headquarters at Division Street, Harrisburg, Penn.

(a) Claim that the company violated the current Agreement between Consolidated Rail Corporation and Brotherhood of Railroad Signalmen, particularly, APPENDIX 'P', Rules 6 and 8, when on January 4, 1988, at 6:20 pm they failed to call Maintainer Morris to clear trouble on the crossing protection at Railroad Street, Hummelstown, Penn. on the Harrisburg Line.

(b) Claim that Maintainer Morris be paid three (3) hours at the time and half rate of pay for Section 13." Carrier file SD-2522.

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.

This is a dispute that came about because the Carrier did not call the Claimant for overtime work on his assigned section after he had completed his regular shift.

We find the Organization's position in this matter persuasive, because of the clear language of Appendix "P" of the parties' Agreement, which is controlling in this matter. This Appendix, in pertinent part states:

"Employees will be called from the appropriate list for work in the order in which their names appear on the list"

and

"The signal maintainer assigned to that position in the section involved ***be listed first on the calling list for his section."

and

"A reasonable effort will be made to comply with the procedures outlined above ***."

The evidence shows that no attempt was made to contact the Claimant. Accordingly, while we understand the Carrier's contentions that the weather conditions at the time when the overtime was worked were not the best, the Carrier violated the Agreement in view of the specific language contained in Appendix P. On the other hand, the record also shows that there has been a practice of some standing to use a "trouble truck" concept during periods of inclement weather, a situation applicable to this case and, until now, apparently acquiesced in by the Organization. Nonetheless, the Organization is not barred from insisting upon compliance with the Agreement. It has done so in this case and, by so doing, the Carrier is placed on future notice that unless the parties can reach an accommodation on the use of employees on "trouble trucks", the Rule will be strictly interpreted.

With respect to the claimed damages, we follow Third Division Awards 22148, 24434 and 25930. These have denied compensation under similar circumstances as found in this case.

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever, Executive Secretary

Dated at Chicago, Illinois, this 16th day of October 1990.