

The Third Division consisted of the regular members and in addition Referee George S. Roukis when award was rendered.

(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(Southern Pacific Transportation Company (Western Lines)

STATEMENT OF CLAIM: "Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Southern Pacific Transportation Company (SPTC (WL)):

On behalf of Signal Maintainer G. J. Wees for two hours and forty minutes pay at his punitive rate of pay, account of the Carrier violated the current Signalmen's Agreement, as amended, particularly Rule 18, when it called him to perform work at 11:30 PM on January 1, 1988." Carrier file SIG-21-2.

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.

The basic facts of this case are set forth as follows: On January 1, 1988, at 11:30 P.M., Carrier called Claimant at his home for the purpose of correcting signal trouble between Swain and Alford, Oregon. Claimant accepted the call and then proceeded to get dressed and ready to leave, when he was notified about 11:35 P.M. that the trouble cleared up by itself and the call was canceled. On January 20, 1988, a claim was filed by the Organization, wherein it was charged that Carrier violated Rule 18 - Calls, when Claimant was called to work. The Organization cited Third Division Award 18585 as controlling precedent authority.

In rebuttal, Carrier contends that merely answering a telephone call does not constitute work as that term is used in Rule 18 and further defined by Third Division Awards 23078, 22254, 21728, 21652, 21561, 21295, 6107 and Award 25 of Public Law Board No. 3402. Rule 18 is referenced as follows:

"Employees released from duty and notified or called to perform work outside of and not continuous with regular working hours, shall be paid a minimum allowance of two (2) hours and forty (40) minutes at the time and one-half rate; if held longer than two (2) hours and forty (40) minutes, they shall be paid at the applicable overtime rate on the actual minute basis.

Time of employees so notified shall begin at the time required to report and end when released. Time of employees so called shall begin at the time called and end at the time they return to designated point at home station.

Employees so called less than two (2) hours and forty (40) minutes before their regular starting time, shall be paid at the time and one-half rate until their regular starting time, and thereafter at the straight time rate for the regular hours."

In considering this case within the context of the Awards cited by the parties, the Board concludes that the facts in Third Division Award 18585 are foursquarely on point with the facts herein. In effect, Claimant did not answer a question or respond to an erroneous Carrier call, as were the fact patterns in the cases cited by Carrier, but instead he accepted the call to report to work and was preparing himself to report when the call was canceled. Since these are distinguishable facts and since there has been no showing that Third Division Award 18585 was later found erroneous by successor Awards or questioned as to logical interpretative consistency by the Awards referenced by Carrier, the Board of necessity must find for the Organization.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 28th day of October 1991.