

The Third Division consisted of the regular members and in addition Referee Hugh G. Duffy when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(Norfolk Southern Railway Company

STATEMENT OF CLAIM: "Claim on behalf the General Committee of the Brotherhood of Railroad Signalmen on the Southern Railway Company (SOU):

Continuing claim on behalf of J.K. LaMont, assigned headquarters, Linwood Retarder Yard, assigned working hours 7AM to 4 PM, assigned work days Monday through Friday, rest days Saturday and Sunday for the following:

(a) Carrier is violating the Signalmen's Agreement, particularly Rule 2(c) among others, when they work three signal employees as Signal Maintainers at Linwood Yard but are not paying the senior employee at the Leading Signal Maintainer rate.

(b) Carrier now be required to compensate the Senior employee J.K. LaMont at the Leading Signal Maintainer rate starting 60 days retroactive from this date and continue until Carrier establishes the Leading Signal Maintainer position at Linwood Retarder Yard. Claim is for 11 cents each hour in addition to his pay as a Signalman." Carrier File SG-GBRO-90-8. G.C. File SR-3290. BRS Case No. 8341.SOU

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.

Claimant is the senior of three Floating Signalmen employed under the provisions of Rule 2(d) of the Agreement, headquartered at Carrier's Linwood Yard in Linwood, North Carolina. Each of the three protects a separate territory which is larger than Linwood Yard, but contains Linwood Yard as a common point. While they were assigned during the same period of time at Linwood

Yard to assist signal maintainers who perform maintenance duties, the Carrier states that they work separately and not as a distinct group or gang; they receive their instructions from supervision on a daily or weekly basis, with no work being permanently assigned.

The Organization contends that the floating signalmen are in fact being used as regularly-assigned signal maintainers at Linwood Yard, and that the senior of the three, the Claimant, should be paid at the Leading Signal Maintainer rate under Rule 2(c) of the Agreement. It also contends that it is the established practice between the parties under Rule 2(c) that if more than one signal maintainer is assigned to and working on the same assignment, the senior of them should be paid at the Leading Signal Maintainer rate of pay.

Rules 2(c) and (d) read in pertinent part as follows:

"Classification--Rule 2:

* * * * *

(c) Leading Signal Maintainer: (Revised--April 1, 1942) A signal maintainer assigned to work with and supervise the work of one or more signal maintainers shall be classified as a Leading signal maintainer; the number of employees that may be supervised by a leading signal maintainer shall not exceed, exclusive of the leading maintainer, total of four (4) men covered by the scope of this agreement. This paragraph does not apply when maintainers of separate sections are temporarily working together, unless one of the maintainers is required by proper authority to assume responsibility and direction as a leading maintainer." (emphasis supplied)

(d) FLOATING SIGNALMAN: An employee with assigned headquarters working in his seniority district, performing generally recognized signal construction work. Such employee may be used to assist signal maintainers and traveling signal maintainers who perform maintainers duties within the seniority district. Such employees may also be used for vacation or other relief work."

The Board finds first that the Organization failed to rebut the Carrier's contention that the three employees were being properly used as floating signalmen to assist signal maintainers who perform maintenance duties, as is provided for under the second sentence of Rule 2(d) of the Agreement.

Turning then to the provisions of Rule 2(c), the Rule provides that a signal maintainer will be classified as a Leading Signal Maintainer when "assigned to work with and supervise the work of one or more signal maintainers."

There is nothing in the record which indicates that the Carrier has assigned Claimant to supervise the work of the two other employees, and the Organization did not come forward with any evidence that they work as a distinct group or gang, or that Claimant in fact performs any supervisory duties.

As to the Organization's assertion that it is an established practice between the parties to require that the senior of two or more employees working together on maintenance duties be paid at the Leading Signal Maintainer rate of pay, the Carrier denies that any such interpretation of Rule 2(c) has ever been made, and we find nothing in the record to support the Organization's assertion of such an established practice.

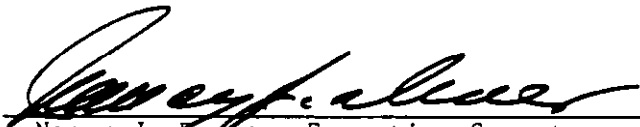
The Board thus finds that the Organization has failed to sustain its burden of proof that the Carrier has violated the provisions of Rule 2(c), and the Claim must accordingly be denied.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 24th day of July 1992.