

The Third Division consisted of the regular members and in addition Referee Joseph A. Sickles when award was rendered.

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

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

CASE NO 1

Claim on behalf of Mr. J L. Weatherford, assigned as District Gang Signal Foreman at the time of this requirement to furnish a valid telephone number, for the following:

(a) Carrier violated the Signalmen's Agreement, particularly Rule 58, when they refused to reimburse Claimant for 50% of the installation and rental of the telephone that he was required to have.

(b) Carrier now be required to reimburse Mr J L Weatherford for 50% of the installation and monthly rental of telephone that he was required to have as a requirement of service, in the amount of \$62.30 as is provided by Rule 58 of the Signalmen's Agreement.

(c) Claim is to continue for as long and until he is notified that he is not required by the Carrier to have a telephone. (sic) and that 50% of the monthly rental will be reimbursed to Claimant each month in addition to the initial installation and rental in part (b) of this claim. Carrier's File No. SG-ATLA-90-4. Gen'l. Chmn's. File No. SR-1490. BRS Case No. 8339-SOU.

CASE NO 2

Continuing claim on behalf of all Signal Foremen on Southern Lines East and Lines West Seniority Districts, Namely D P Acree, H J Deloach, T D Jennings, J H Burns, T L Coggins, R C Lance, J D Sorrells, D M Prince and J G Harwood, or their successors, for the following:

(a) Carrier is violating Rule 58 of the Signalmen's Agreement when they failed to pay 50% of the monthly rental of telephones for signal Foremen after requiring them to furnish a telephone to handle Company business on while Signal Foremen are off duty and at their homes.

(b) Carrier now be required to reinmburse Signal Foremen for 50% of the rental of their telephones as provided by Rule 58 of the Signalmen's Agreement starting retroactive for the November 1989 rental and continuing until Carrier meets their obligations under Rule 58 of the Signalmen's Agreement." Gen'l. Chmn's. File No. SR-1590. Carrier's File No. SG-ATLA-90-5. BRS Case No. 8340-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 employee or employees involved in this dispute are respectively carrier and employees 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.

Rule 58 states that:

"Employees shall not be required by the Company to provide a telephone at their own expense. Where telephones are so required, they shall be paid for 50% by the Company and 50% by the employees, except in instances where they are on a private line with no outside connection, in which cases the Company will assume the entire cost."

Concerning Case No. 1, the Carrier advised the Claimant, on November 6, 1989:

"Our efforts to acquire a valid telephone number from you have not yielded such as of this date. It is essential that this information be forwarded to my office in order for us to be able to allow you to perform your duties as a Signal Foreman.

You are hereby instructed to furnish a valid telephone number to my office no later than November 17, 1989. Also this telephone number must be furnished to B.A. Denton in our Roanoke office.

If I can be of any assistance to you in your efforts toward acquiring your telephone please let me know."

The Carrier refused to reimburse the Claimant 50% of the installation and monthly rental of the telephone. The Carrier denied that it required the Employee to provide a telephone. Rather it only required him to provide a telephone number. But, the final paragraph of the cited November 6, 1989 letter leads us to conclude that the Carrier is required to pay 50% of the monthly bill, but not for installation.

Concerning Case No. 2, nine Claimants also sought 50% reimbursement since, "It has been made clear...that Signal Foremen must have a phone to work as Signal Foremen." Carrier raised a similar defense. The Organization did not present any specific documents concerning the nine Claimants, but rather relied on the cited letter to the Claimant in Case No. 1 to conclude that all similarly situated employees are required to have a telephone. Otherwise, neighbors would be required to subsidize the Carrier.

The Carrier continues to insist that it does not require a telephone, but merely a telephone number so that the Claimants can be contacted in case of emergency.

Certainly, with reference to Case No. 2, there is no evidence that any of the nine employees were required to have a telephone, and that claim must be dismissed.

Limited solely to this record, we will dismiss Case No. 2 for failure of proof.

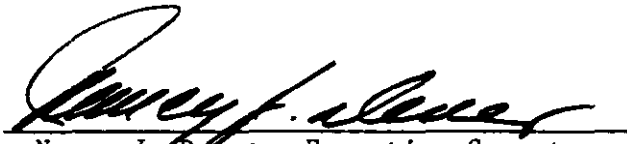
A W A R D

Claim No. 1 is sustained in accordance with the Findings.

Claim No. 2 is dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dover - Executive Secretary

Dated at Chicago, Illinois, this 17th day of September 1992.