

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 31131
Docket No. SG-31121
95-3-93-3-156

The Third Division consisted of the regular members and in addition Referee Dana E. Eischen when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(CSX Transportation, Inc. (former Louisville
(and Nashville Company)

STATEMENT OF CLAIM:

Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Louisville & Nashville Railroad:

"Claim on behalf of C.D. Phillips for payment of 10 hours at the straight time rate and four hours at the time and one-half rate, account Carrier violated the current Signalmen's Agreement, particularly Rules 14, 17, 18 and 32, when it utilized employees from another seniority district to perform work in the Claimant's seniority district and deprived the Claimant of the opportunity to perform the work." Carrier's File No. 15 (92-25). General Chairman's File No. 92-176-01. BRS File Case No. 9018-L&N.

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 employee 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.

Signalman C. D. Phillips (Claimant) is assigned to and holds seniority in District #1, headquartered at Patio, Kentucky. On February 15, 1992, the Organization filed a claim contending that Carrier violated the Signalmen's Agreement, particularly Rules 14,

17, 18 and 32, when Signal Maintainer F. D. Hall, an employee with seniority in Seniority District #4, performed work in Seniority District #1 on January 2, 3 and 23, 1992.

The Organization contended that on January 2 and 3, Signal Maintainer Hall assisted employees in District #1 with replacement of line wire, performing six hours of straight time service and four hours of overtime service on those dates. On January 23, Hall assisted employees in District #1 with repair of code line problems, performing four hours of straight time service on that date. The Organization maintained that as an employee holding seniority in District #1, Claimant should have been given preference to the work assigned to Hall and requested payment of ten hours straight time and four hours at the time and one-half rate to Claimant to "... compensate for the loss of the opportunity to perform the work."

Carrier denied the claim, maintaining that on January 2 and 3, Hall was instructed to carry line wire to Lyndon, Kentucky, but asserting that he "... was not instructed to help put the line wire up." With respect to the January 23 claim date, Carrier stated that code wire was failing intermittently and it was necessary to contact Hall to assist with the necessary repairs, because allegedly Claimant and the Seniority District #1 crew were "otherwise engaged." Carrier noted that Claimant was fully compensated for ten hours on January 23, 1992. Finally, Carrier maintained that: "Mr. Phillips has not notified Signal Supervisor Boatright or Claimant's former Supervisor D. Ucker that he was willing to take overtime and to have his name put on the call list."

The Organization responded to Carrier's denial asserting that the "so called Call List" has not been brought to the attention of the employees, and that "... none of these employees are aware of any Agreement Rule, nor Carrier Rule that requires them to place their names on any such call list for this area."

The claim was discussed in conference on September 15, 1992, at which time the Organization furnished Carrier with a statement from Claimant's Foreman attesting to the fact that Claimant had provided the telephone number where he could be contacted for work assignments outside of his regular hours. However, Carrier confirmed its denial of the claim, maintaining that by providing his phone number to his Foreman he "... did not satisfy his obligation to notify Carrier where he could be called."

In further correspondence, the Organization responded to Carrier's continuing denial noting that Carrier had previously

called Claimant for overtime service based on the information he had provided to Carrier, and that Carrier had made "no attempt" to call Claimant for the work before assigning it to the employee from District #4.

Carrier acknowledged the basic facts regarding the work performed in District #1 by the employee from District #4 and its failure to attempt to call Claimant. The facts presented on this record establish a prima facie violation of the Agreement's seniority provisions, which specifically restrict employee seniority to "one district only." Carrier has not presented any justification for disregarding the plain language of the seniority provision. Claimant demonstrated a violation of his seniority rights with attendant loss of work opportunity and related income.

AWARD

Claim sustained.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 26th day of September 1995.