

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 31445
Docket No. SG-31514
96-3-93-3-564

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

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(National Railroad Passenger Corporation
(AMTRAK)

STATEMENT OF CLAIM:

"Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the National Railroad Passenger Corporation (NRPC-S):

Claim on behalf of J.K. Mull, Jr. for payment of six hours at the time and one-half rate, account Carrier violated the current Signalmen's Agreement, particularly Appendix "F", when it failed to call the Claimant for overtime service at the B&P Tunnel on February 1, 1992, and deprived the Claimant of the opportunity to perform such work. Carrier's File No. NEC-BRS(S)-SD-594. General Chairman's File No. RM2347-65-992. BRS File Case No. 9174-NRPC(S)."

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.

The fact situation as set forth in this case record reveals that on Saturday, February 1, 1992, at approximately 1:00 P.M., a signal malfunction developed which required timely correction. The Maintainer who was on duty and under pay in the involved territory made attempts to correct the problem without success. He thereupon

reported to his Supervisor that he was unable to correct the malfunction. Carrier thereupon called an Assistant Inspector on an overtime basis to oversee the situation and lend his greater expertise to the correction of the malfunction. At the conclusion of his tour of duty at 3:00 P.M., the on-duty Maintainer departed the scene and two other Maintainers who reported for their regular assignments at 3:00 P.M. continued to work on the signal problem. The Assistant Inspector continued to work with these two Maintainers who had reported at 3:00 P.M. until the signal problem was eventually corrected at approximately 7:20 P.M.

The Claimant in this case was assigned to a relief Maintainer position headquartered at Baltimore, Maryland, with Friday and Saturday as rest days. The claim as presented is based on the premise that if additional Maintainer's service was required to correct the signal malfunction, Claimant should have been called from the overtime call list to perform such service. The Organization argued, without supporting documentation, that the Claimant is "a qualified employee to perform this type of trouble shooting as he has done in the past many times." Therefore, it contends, that Carrier violated Appendix "F" which provides a procedure for calling Maintainers outside of their regular working hours to perform Maintainer's work. The Organization additionally alluded to an April 30, 1987 local letter of understanding which, it says, was violated by Carrier's use of the Assistant Inspector in this case.

In its Submission to the Board, the Organization again alluded to the 1987 local understanding. It presented to the Board an exhibit which was a blank form document with the heading "Baltimore C&S Overtime Call List Record" which contained on the right side of the document the following information:

"Call Preference

- 1 - Section Maintainer
- 2 - Sectional Seniority

If maintainers are not available:

- 1 - Asst. Inspector
- Asst. Foreman
- 2 - Inspector
- Foreman
- 3 - District Seniority Roster

If supervisory capacity is needed:

- 1 - Inspector
- 2 - Foreman

Signed:

\s\ D.A. Holmes, ADE C&S 4/30/87

\s\ A.J. Rush, Local Chairman 4/30/87
B.R.S. of A. Local #65

\s\ W.L. Bryan, Local Chairman
B.R.S. of A. Local #48"

Apparently this is the 1987 local agreement previously mentioned.

The Organization also presented to the Board an exhibit entitled "Maintainer's Call List." The listing of names on this "Maintainer's Call List" contained Claimant's name at position #8 on the list and the Assistant Inspector's name at position #17 on the list. These two documents, the Organization asserts, support its position that Claimant should have been called ahead of the Assistant Inspector in this instance on the basis of his standing on the "Maintainer's Call List."

It is Carrier's position that the signal malfunction here involved required "additional expertise beyond that of (a) Maintainer" and therefore, the use of the Assistant Inspector to supervise and lend additional expertise to the situation was a proper managerial decision in light of the fact that the regularly assigned Maintainers were on the scene and were unable to effect a correction of the signal malfunction. It argues that the Assistant Inspector was utilized in his capacity as a supervisory Assistant Inspector and not as a Maintainer. It insists that there was no need for another Maintainer inasmuch as there were two Maintainers already on duty and under pay and they were unable to correct the problem. Carrier contends that there is nothing in the case record to suggest or prove that the addition of one more Maintainer to the trouble situation would have effected a resolution of the signal malfunction.

The Board reviewed the language of Appendix "F" and the attendant documents relating thereto. It is clear that the entire Agreement is concerned with procedures for the performance of Maintainer's work. Even accepting the "Call Preference" document and the "Maintainer's Call List" document at face value, they are

each obviously tied directly to the terms and conditions of Appendix "F" and therefore applicable to the performance of Maintainer's work outside of their regular working hours. In this case, the Organization failed to prove by probative evidence that the Assistant Inspector performed any service other than that required of a supervisory Assistant Inspector. The Board is persuaded by Carrier's argument that additional Maintainers were not needed in this particular situation. Rather, the need was for an Assistant Inspector's supervision and added expertise. The Assistant Inspector's relative position on the "Maintainer's Call List" (where he apparently also had Maintainer's seniority) is not the governing or dispositive factor in this instance. He was not called from the "Maintainer's Call List." He was called in his capacity as an Assistant Inspector to function as an Assistant Inspector. It is the Board's conclusion, therefore, that Appendix "F" was not violated in this case.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant be not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 25th day of April 1996.