

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

Award No. 31956  
Docket No. SG-32201  
97-3-94-3-631

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

(Brotherhood of Railroad Signalmen  
**PARTIES TO DISPUTE:** (  
(Chicago and North Western Railway Company

**STATEMENT OF CLAIM:**

"Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Chicago & North Western Transportation Co. (CNW):

Claim on behalf of J.M. Walsh for payment of the appropriate Assistant Signalman's rate, beginning 60 days prior to January 2, 1994 and continuing until his rate is properly adjusted, and for all other Assistant Signalmen similarly compensated at a lower rate of pay, account Carrier violated the current Signalmen's Agreement, particularly Rule 47(a), when it failed to properly implement the periodic wage increases for the Claimants. Carrier's File No. 79-94-11. General Chairman's File No. S-AV-195. BRS File Case No. 9468-CNW."

**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 were given due notice of hearing thereon.

The issue in this case concerns the agreed-upon rates of pay which are applicable to Assistant Signalmen during their periods of training in their progression to Signalman status. The dispute centers around the language and application of Agreement Rules 47 and 50, as well as agreed-upon Appendix "O." To permit a clear understanding of the issues here involved, the text of the Rules and Appendix "O" are reproduced in their entirety.

**"Rule 47 - ASSISTANT SIGNALMEN**

- (a) Assistant signalmen are employees in training to become signalmen or signal maintainers.

The period of training will be 24 months divided into 4 segments of 6 months each, which will establish four advancing levels of trainee proficiency. The training program will combine home study, formal instruction, and on-the-job training, and will cover all phases of signal work, including signal shop work.

Step rates of pay will apply during such 4 segments of 6 months each, as follows:

- 1st segment - 87% of signalman's rate
- 2nd segment - 88% of signalman's rate
- 3rd segment - 89% of signalman's rate
- 4th segment - 90% of signalman's rate

**Note:** See Memorandum Agreement of June 8, 1972 revised November 5, 1981 regarding Training Program, Appendix 'O'.

- (b) Assistants will not be placed on night shifts during the first two periods of training.

- (c) Assistants may be required to transfer from point to point not more than 30 miles distant or from shift to shift in order to obtain necessary experience and education to fit them for advancement or to permit others to do so and may for that purpose be required to change their headquarters not more often than twice a year. When so changed will not be required to lose time; the amount of time required for the move to be mutually agreed upon between the man affected and his superior officer. The man so affected will be given thirty days notice, by bulletin.

Note: See Rule 31(a) concerning seniority."

**"Rule 50 - RATE OF PAY**

The following rates are those in effect on January 1, 1985 and are subject to future wage adjustments and COLA.

<b><u>Classification</u></b>	<b><u>Monthly Hours</u></b>	<b><u>Monthly Hours</u></b>	<b><u>Hourly Rate</u></b>
District Signal Foreman	232.7	\$3,094.08	
Crew Foreman - (Including Signal Shop Foreman)			\$15.03
Signal Inspector (Testman)			14.96
Signal Electronic Technician			14.36
Leading Signal Maintainer			13.96
Leading Signalman			13.70
Signal Maintainer			13.66
Autogenous Welder Signalman			13.37
Signalman			13.26
Assistant Signalman and Maintainer			
1st six months			11.69
2nd six months			11.80
3rd six months			11.90
4th six months			12.07

A minimum of 130 days of service shall constitute a period within the meaning of this rule."

**"APPENDIX 'O'**

**MEMORANDUM OF AGREEMENT  
BETWEEN THE CHICAGO AND NORTH WESTERN TRANSPORTATION  
COMPANY AND THE BROTHERHOOD OF RAILROAD SIGNALMEN  
PROVIDING FOR THE ESTABLISHMENT OF A TRAINING  
PROGRAM FOR SIGNAL EMPLOYEES**

This agreement supersedes and replaces the training agreement of June 8, 1972.

To establish a training program for employees in the Signal Department,  
**IT IS AGREED:**

1. Training provided for in this agreement will be performed as necessary and as sufficient employees to justify a class are available for such training.
2. Individuals entering the service of the carrier as Assistants (other than temporary summer employees) shall be required to participate in the training program.
3. Classes will be set up at the L.S. Provo Training Center at West Chicago, Illinois, or at such other points as may be designated by the Carrier.
4. The period of training will be 24 months divided into 4 segments of 6 months each, which will establish four advancing levels of trainee proficiency. The training program will combine home study, formal instruction, and on-the-job training, and will cover all phases of signal work, including signal shop work.
5. All required training materials and documents will be furnished by the Carrier at no expense to the employee.

6. **Employees will be compensated at their regular straight time rate of pay while attending classes. Should one of the National Holidays specified in the Signalmen's Agreement occur during a session on a day which would normally be a work day for the employee(s) they shall choose a mutually acceptable alternate date. The Carrier will to the extent possible schedule classes in weeks that do not include National Holidays.**

**Note: Training will not be scheduled on Labor Day, Thanksgiving, Christmas Eve or Christmas Day, nor on New Years Day. When training includes any other holiday, the agreement should reflect training status on straight time pay for that day, plus the aforementioned alternate day off at sometime after that training period is completed.**

7. **While an employee in the training program is not attending formal classes, approximately five hours during regular working hours each work week will be devoted to practical on-the-job instructions.**
8. **There will be an examination for each six month period, such examination to be restricted to material covered during that period. This examination, to be given under the direction of the Carrier, may be a combination of written and oral questions as well as questions on practical situations with a 75% grade being required to pass the test. A demonstration of ability to perform practical application of signal work will also be required of all trainees. Organization representatives will be permitted to observe examinations and/or classroom sessions.**
9. **If an employee fails the first examination in any period, he will be given an opportunity within sixty days to take the examination a second time. An employee who fails the examination a second time will forfeit all seniority rights and have his service terminated.**

**This provision supersedes the qualification and discipline rules contained in the Signalmen's Agreement.**

10. When an employee is notified to attend a training class at a location other than in the city or terminal district where he resides, he will be notified of the form of transportation to be used in going to and from the city where classes are held, subject to the following:
- (a) Method of transportation will be authorized in advance, and will be at company expense.
  - (b) If commercial transportation is used, the employee will be reimbursed the cost thereof.
  - (c) If an employee uses his automobile, the prevailing mileage allowance will be paid.
  - (d) If the employee is authorized to use free company transportation, such transportation will be furnished by the Carrier.
11. The employee will be reimbursed for actual necessary expenses for meals and lodging while traveling to and from the city where classes are held and when attending classes at points other than in the city or terminal district where he resides.
- Such an employee whose home is within 30 miles of the point where classes are held will not come under the provisions of this item, unless directed by proper authority to remain away from home overnight.
12. Employees will be allowed 8 hours at straight time rate at their regular rate of pay for each calendar day that formal training referred to in Item 4 is in session.

**This memorandum agreement becomes a part of the current signalmen's schedule agreement effective January 1, 1982.**

**Signed at Chicago, Illinois this fifth day of November 1981."**

The instant dispute had its origin in a grievance presented by the Organization in January 1994, on behalf of the named Claimant alleging that, following his employment as an Assistant Signaller on May 18, 1992, his Assistant Signaller rate of pay should have progressed on a 6-month calendar basis resulting in his receiving the 4th segment pay rate specified in Rule 47 beginning on November 18, 1993. During the on-property progression of the dispute, the Organization contended that Rule 47, as well as Appendix "O", at Paragraph No. 4 thereof, specifically provides for four 6-month segments for the step rate progressions as well as for the training periods of Assistant Signallers.

For its part, Carrier insisted that the 6-month periods of training and progressive compensation contemplated more than just the passage of a calendar period. Carrier argued that the 6-month periods of training and resultant pay rate increases demanded the actual performance of service either in classroom training or in on-the-job work performance by the Assistant Signaller. Carrier pointed out that, in this case, Claimant performed only minimal service during some of the calendar months and that, when he had performed the equivalent of six months service, his rate of pay was adjusted. Carrier referred the Board to the language of Rule 50 - RATE OF PAY which identifies "130 days of service" as the measure of a 6-month period. Carrier additionally contended that "since the inception of this agreement" it has historically and without objection from the Organization applied the 6-month step rates on the basis of 130 days of service in the same manner as was applied in this case.

From the Board's review of the applicable Rules and after considering the respective arguments of the parties, it finds it inescapable that the fundamental purposes of the training program and the attendant pay progression provisions are to provide the Assistant Signaller with adequate training and work experience in the craft to permit the employee to successfully complete the training regimen. Examinations are required "for each six month period" (Paragraph 8, Appendix "O"). Clearly, calendar months in which the employee performs only limited or no actual service would have no meaning to the employee at the time of the 6-month periodic examination demanded by the Agreement.

While the language construction of Rule 47 may not be as clear in its meaning of a 6-month period as would be desired, and with the recognition by the Board of the separate and distinct applicability of Rule 47 versus Rule 50, the totality of the training program concept and the attendant pay rate adjustments as the training progresses

convinces the Board that the Assistant Signalman must under Rule 47 and Appendix "O" perform six months of service in the respective step rates before becoming eligible for advancement to the next step rate. When this conclusion is coupled with the more than ten years of unchallenged application by the Carrier of the 130 days of service as a measure of a 6-month period, it becomes abundantly clear that this was the intent of the parties. Therefore, the claim as advanced in this dispute is denied.

**AWARD**

Claim denied.

**ORDER**

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

**NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division**

**Dated at Chicago, Illinois, this 19th day of March 1997.**