

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 35586
Docket No. SG-35591
01-3-99-3-510

The Third Division consisted of the regular members and in addition Referee Curtis Melberg when award was rendered.

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

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Kansas City Southern Railroad (KCS):

Claim on behalf of R. A. Shelton for payment of 16 hours at the time and one-half rate, account Carrier violated the current Signalmen’s Agreement, particularly Rule 12(a) when it required the Claimant to remain on standby service on December 26 and 27, 1997, without providing him with any additional compensation for this service. Carrier File No. K0698-5090. General Chairman’s File No. 985912. BRS File Case No. 11018-KCS.”

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.

During the time in question here, the Claimant was the incumbent of a monthly rated Signal Maintainer position, Job 849, headquartered at Ashdown, Arkansas. As a monthly rated employee, his workweek and compensation were governed by Rule 46 of the parties' Agreement, reading, in part, as follows:

"RULE 46

MONTHLY RATED EMPLOYEES

(a) . . . Signal Maintainers . . . will be paid a monthly rate. . . . Except as otherwise provided, employees filling these positions shall be assigned one regular rest day per week, Sunday, which is understood to extend 24 hours from their regular starting time. Rules applicable to hourly rated employees shall apply to all service on Sunday and to ordinary maintenance or construction work on holidays or on Saturdays.

(b) Except as provided herein the monthly rate shall be for all work subject to Rule 1 of this Agreement on the position to which assigned during the first five days of the workweek, Monday to Friday, inclusive. Also the monthly rate shall be for other than ordinary maintenance and construction work on Saturdays."

The Claimant's regular starting time was 8:00 A.M..

On Thursday, December 25, 1997, the Claimant advised the Carrier that he would be unavailable for standby call service from 4:00 P.M., Friday, December 26, until 6:00 P.M., Sunday, December 28, and that the Signal Maintainer assigned to Job 805 would be providing coverage for him over the weekend. The Carrier responded by notifying the Claimant that he could not be released from standby call service until 8:00 A.M., Saturday, December 27, and he was not.

The Organization filed the instant claim contending the Carrier wrongfully denied the Claimant a "full" weekend off by not releasing him from standby call service until 8:00 A.M. on Saturday, December 27. Rule 12(a), reading in part as follows, is cited in support of the claim:

“RULE 12

CALLS (AVAILABILITY/COVERAGE AND PAY)

(a) . . . Signal Maintainers . . . shall be required to stand by for call service not more than one (1) weekend out of every two (2). Standby schedule shall be prepared by Management and a copy will be provided to the Local Chairman. Assigned standby may be adjusted by the affected employee and an adjoining Signal Maintainer, or Inspector where appropriate, subject to approval of the Signal Supervisor. . . .” (Emphasis added.)

The Carrier denied the claim, contending the time in question, 4:00 P.M., Friday, December 26, to 8:00 A.M., Saturday, December 27, was not part of the Claimant’s weekend. The Carrier asserts that the weekend did not begin for him until that Saturday at 8:00 A.M., his regular starting time, and he was free after that to enjoy his weekend. To support its definition of a Rule 12(a) “weekend,” the Carrier points out that Rule 46(a), supra, defines a Signal Maintainer’s weekly rest day, Sunday, as extending 24 hours from his/her regular starting time. “Since the Sunday off day begins at the regular starting time [Rule 46(a)], the weekend must begin at the starting time on Saturday, which is 8:00 a.m.,” the Carrier concludes.

The issue presented, of course, is what constitutes a “weekend” within the meaning of Rule 12(a). The term is not defined in the Rule, and, as noted, both parties advanced opposing interpretations of it. As we read the record, however, the Organization offers only assertions that the Claimant’s weekend began at 4:00 P.M., Friday, December 26, and at no time, either before the Board or during the handling of the claim on the property, did it present probative evidence supporting its position or rebut the Carrier’s rationale that the weekend began for him at 8:00 A.M., Saturday, December 27. Accordingly, because the Organization has the burden of proving the validity of the claim, we have no alternative but to find that the Organization failed to satisfy that burden.

AWARD

Claim denied.

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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 24th day of July, 2001.