

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 37118
Docket No. SG-36059
04-3-00-3-204

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

(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(Union Pacific Railroad Company

STATEMENT OF CLAIM:

“Eleven Claims on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Union Pacific Railroad Company:

CLAIM (A)

- (A). Continuing claim on behalf of H. C. Fullgrabe, for payment of \$4.08 per hour commencing on January 16, 1999 and continuing until this violation ceases and to have the Claimant reclassified as a Retarder Yard Maintainer, account Carrier violated the current Signalmen's Agreement, particularly Rule 1, H, when it improperly classified the Claimant as an Interlocking Repairman. Carrier File No. 1178773. General Chairman's File No. SWGC1958. BRS File Case No. 11089-SP.

CLAIM (B)

- (B). Continuing claim on behalf of R. H. Marine, for payment of \$4.08 per hour commencing on January 16, 1999 and continuing until this violation ceases and to have the Claimant reclassified as a Retarder Yard Maintainer, account Carrier violated the current Signalmen's Agreement, particularly Rule 1, H, when it improperly classified the Claimant as an

Interlocking Repairman. Carrier File No. 1178774. General Chairman's File No. SWGC1959. BRS File Case No. 11089-SP.

CLAIM (C)

- (C). Continuing claim on behalf of F. N. Mayancsik, for payment of \$4.08 per hour commencing on January 16, 1999 and continuing until this violation ceases and to have the Claimant reclassified as a Retarder Yard Maintainer, account Carrier violated the current Signalmen's Agreement, particularly Rule 1, H, when it improperly classified the Claimant as an Interlocking Repairman. Carrier File No. 1178775. General Chairman's File No. SWGC1960. BRS File Case No. 11089-SP.

CLAIM (D)

- (D). Continuing claim on behalf of P. R. Brown, for payment of \$4.08 per hour commencing on January 16, 1999 and continuing until this violation ceases and to have the Claimant reclassified as a Retarder Yard Maintainer, account Carrier violated the current Signalmen's Agreement, particularly Rule 1, H, when it improperly classified the Claimant as an Interlocking Repairman. Carrier File No. 1178776. General Chairman's File No. SWGC1961. BRS File Case No. 11089-SP.

CLAIM (E)

- (E). Continuing claim on behalf of V. E. Brand, for payment of \$4.08 per hour commencing on January 16, 1999 and continuing until this violation ceases and to have the Claimant reclassified as a Retarder Yard Maintainer, account Carrier violated the current Signalmen's Agreement, particularly Rule 1, H, when it improperly classified the Claimant as an Interlocking Repairman. Carrier File No. 1178777. General Chairman's File No. SWGC1962. BRS File Case No. 11089-SP.

CLAIM (F)

- (F). Continuing claim on behalf of G. F. Revoir, for payment of \$4.08 per hour commencing on January 16, 1999 and continuing until this violation ceases and to have the Claimant reclassified as a Retarder Yard Maintainer, account Carrier violated the current Signalmen's Agreement, particularly Rule 1, H, when it improperly classified the Claimant as an Interlocking Repairman. Carrier File No. 1178778. General Chairman's File No. SWGC1963. BRS File Case No. 11089-SP.

CLAIM (G)

- (G). Continuing claim on behalf of M. R. Simpson, for payment of \$4.08 per hour commencing on January 16, 1999 and continuing until this violation ceases and to have the Claimant reclassified as a Retarder Yard Maintainer, account Carrier violated the current Signalmen's Agreement, particularly Rule 1, H, when it improperly classified the Claimant as an Interlocking Repairman. Carrier File No. 1178779. General Chairman's File No. SWGC1964. BRS File Case No. 11089-SP.

CLAIM (H)

- (H). Continuing claim on behalf of B. C. Curran, for payment of \$4.08 per hour commencing on January 16, 1999 and continuing until this violation ceases and to have the Claimant reclassified as a Retarder Yard Maintainer, account Carrier violated the current Signalmen's Agreement, particularly Rule 1, H, when it improperly classified the Claimant as an Interlocking Repairman. Carrier File No. 1178780. General Chairman's File No. SWGC1965. BRS File Case No. 11089-SP.

CLAIM (I)

- (I). Continuing claim on behalf of W. C. Dean, for payment of \$4.08 per hour commencing on January 16, 1999 and continuing until this violation ceases and to have the Claimant reclassified as a Retarder Yard Maintainer, account Carrier violated the current Signalmen's Agreement, particularly Rule 1, H, when it improperly classified the Claimant as an Interlocking Repairman. Carrier File No. 1178781. General Chairman's File No. SWGC1966. BRS File Case No. 11089-SP.

CLAIM (J)

- (J). Continuing claim on behalf of K. A. Rosebure, for payment of \$4.08 per hour commencing on January 16, 1999 and continuing until this violation ceases and to have the Claimant reclassified as a Retarder Yard Maintainer, account Carrier violated the current Signalmen's Agreement, particularly Rule 1, H, when it improperly classified the Claimant as an Interlocking Repairman. Carrier File No. 1178782. General Chairman's File No. SWGC1967. BRS File Case No. 11089-SP.

CLAIM (K)

- (K). Continuing claim on behalf of R. L. Walton, for payment of \$4.08 per hour commencing on January 16, 1999 and continuing until this violation ceases and to have the Claimant reclassified as a Retarder Yard Maintainer, account Carrier violated the current Signalmen's Agreement, particularly Rule 1, H, when it improperly classified the Claimant as an Interlocking Repairman. Carrier File No. 1178783. General Chairman's File No. SWGC1968. BRS File Case No. 11089-SP."

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.

In connection with the Union Pacific Railroad (UP) purchase of the Southern Pacific Railroad (SP) the Carrier and the Organization agreed that the SP-BRS Agreement would be superceded by the UP-BRS Agreement. The Claimants are former SP Signal Maintainers who now work for the UP in the West Colton Classification Yard. The Claimants argue that they should have been classified as Retarder Yard Maintainers under the UP-BRS Agreement; whereas the Carrier insists that the facts of their employment status justify their classification as Interlocking Repairman.

Controlling in this case is the following clear and unambiguous classification Rule language from Rule 1, Section H of the UP-BRS Agreement:

"H. Retarder Yard Maintainer: An employee assigned to repairing and maintaining a retarder yard equipped with radar or computer control of retarders and requiring at least a General Radio License. Maintainers of retarder yards not covered by the first sentence of this section will be classified as Interlocking Repairman."

As part of the transition from the SP-BRS Agreement to the UP-BRS Agreement, the Carrier and the Organization agreed to revise the staffing structure at former SP retarder yards to follow the staffing structure at UP retarder yards.

Thus, in accordance with Rule 1, Section H of the UP-BRS Agreement, supra, all former SP Signal Technicians who performed Retarder Yard Maintainer work under the SP-BRS Agreement were reclassified as Retarder Yard Maintainers; and all former SP Signal Maintainers, like Claimants, were reclassified as Interlocking Repairmen.

The Claimants urge that because they use computers from time to time in their work they are under the penumbra of the first sentence of the above-quoted Rule 1, Section H. However, that theory altogether ignores the additional condition “. . . requiring at least a General Radio License.” The Organization has not effectively refuted the Carrier’s persuasive showing that none of the Claimants possess or need a General Radio License in the performance of their regular duties. Perforce, because the Claimants’ work is “not covered by the first sentence of Rule 1, Section H” their work is covered by the second sentence. Because their work is covered by the second sentence, the Claimant’s have not shown that their classification by the Carrier as Interlocking Repairmen violated any provision of the controlling Agreement.

De novo arguments raised by the Organization in its Submission, citing Side Letter No. 3 and “grandfather rights,” may not appropriately be considered by the Board under the preclusionary standards of Circular No. 1 of the Board.

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 25th day of August 2004.