Award Number 88
Docket Number SG–87

NATIONAL RAILROAD ADJUSTMENT BOARD

Third Division

Paul Samuell, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN OF AMERICA

THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY, EASTERN LINES

DISPUTE.—"Claim that L. M. Rhea of Middle Division be paid the difference between the rate of 53¢ per hour and the rate received, 35¢ per hour, both less ten percent deduction, while working in the Signal Department in June and July 1933."

FINDINGS.—The Third Division of the Adjustment Board, upon the whole record and all the evidence finds that:

The carrier and the employee 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.

The parties to said dispute were given due notice of hearing thereon.

As result of a deadlock, Paul Samuell was called in as Referee to sit with this Division.

The parties certified the following as "Joint Statement of Facts":

> "On June 2, 1933, L. M. Rhea entered service in the Signal Department on the Middle Division, working 200½ hours in June and 53½ hours in July 1933. For this service he was classified and compensated at the Laborer's rate of 35 cents per hour, less ten percent deduction."

L. M. Rhea actually *reentered* service on June 2d, 1933; he was without employment immediately prior to that date because of force reduction, having seniority rights as assistant signalman on the Middle Division.

The current agreement between the parties (bearing effective date of February 1, 1929) governing wage rates and working conditions is applicable to employees "performing the work generally recognized as signal work." Article I thereof defines the work and classifications of signal department employees; Section 2, Article III, defines the classes for seniority as follows:

> "CLASS A. Gang foreman, leading signalman, leading signal maintainer.
> "CLASS B. Signalman, signal maintainer.
> "CLASS C. Assistant signalman, assistant signal maintainer.
> "CLASS D. Helper."

Section 5, Article I, defines the work and classification of a "Helper" as follows:

> "SECTION 5. *Helper.*—A man assigned to perform work generally recognized as helper's work and to assist signalmen, assistant signalmen, signal maintainers, or assistant signal maintainers, shall be classified as a helper."

The principal point of contention between the disputants in this case is whether Mr. Rhea during the period of such employment actually performed the duties of a Signalman's Helper, although classified and accepted by the employer as a Laborer. The other points in dispute in this case are collateral to this particular issue. The evidence in this record seems to support the employees' contention that Mr. Rhea performed the work of a Signalman's

Helper, and it is, therefore, unnecessary for this Division to pass upon other issues.

AWARD

Claim sustained.

By Order of Third Division:

NATIONAL RAILROAD ADJUSTMENT BOARD.

Attest:

H. A. JOHNSON,
Secretary.

Dated at Chicago, Illinois, this 4th day of September 1935.