

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Adolph E. Wenke, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN OF AMERICA
CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC
RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of R. W. Williams, Signal Maintainer, Chicago Terminal Crew, with headquarters at Tower A-5, Pacific Junction, Illinois, (1) for time and one-half rate for services performed at Tower A-2 outside of assigned hours on July 17 and 18, 1942, and (2) for straight time for eight hours each of these days account required to suspend work during regular hours to absorb overtime.

EMPLOYEES' STATEMENT OF FACTS: November 16, 1939, Bulletin No. 143-39 was issued to advertise permanent position of signal maintainer in maintenance crew with headquarters at Tower A-5, Pacific Junction, Illinois. This bulletin indicated that the assigned hours for the position were from 7:00 A. M. to noon and from 1:00 P. M. to 4:00 P. M. The assigned territory was the Chicago Terminal District and the regular days off for the position were shown as Sundays and holidays. The bulletin advertises that a brief description of the duties of the position was electrical and mechanical repair and construction work pertaining to the various DC block signal systems and the electric, electro-pneumatic, mechanical, remote control and drawbridge interlocking plants together with spring switch layouts, crossing signals and bells.

December 8, 1939, a bulletin, also numbered 143-39, was issued announcing that Mr. R. W. Williams had been assigned to the position of signal maintainer in the Chicago Terminal Maintenance Crew as advertised in Bulletin No. 143-39. This announcement reported that Phil Tocke, W. M. Coe, W. L. Stewart and G. H. Mooney had also applied for this position.

July 17 and 18, 1942 Mr. Williams was permitted to work but one hour of his regular assigned hours on these days and was required to perform services for seven hours each day outside his regularly assigned hours. Compensation was allowed on basis of eight hours each day at straight time rate.

The controlling agreement between the parties became effective November 1, 1938.

POSITION OF EMPLOYEES: It is the position of the Brotherhood that the carrier violated the provisions of Rule 13 when it refused to compensate Mr. Williams at rate and one-half for services performed outside his regularly established working period and it violated Rule 10 when it required Mr. Williams to suspend work during regular working hours to absorb overtime and thus in turn violated Rule 11 by reducing the number of regular working days below six per week without agreement.

2. A regularly assigned employe may be required to perform vacation relief work.
3. An employe performing vacation relief takes the rate of pay and conditions of employment of the vacationing employe.
4. When a vacation is granted the carrier should not be required to assume additional expense over and above what would be involved had the employe entitled to a vacation not been granted such vacation.
5. The working rules are to be applied in a fair and reasonable manner to avoid unnecessary expense to the carrier; neither side should be permitted to gain financial advantages because of granting vacations; the vacation agreement and the working agreement must be construed jointly in a broad sense and not on any strict or literal interpretation of either the vacation agreement or the rules of the working agreement.

In light of the foregoing the claim of Mr. Williams should be denied.

OPINION OF BOARD: The Brotherhood claims Signal Maintainer R. W. Williams of the Chicago Terminal Crew, with headquarters at Tower A-5, Pacific Junction, Illinois, should have been paid on an overtime basis on July 17 and 18, 1942, for services performed at Tower A-2 outside of his regularly assigned hours and for straight time on each of said days for the hours he was required to suspend work on his regular assignment.

The record establishes that the Claimant, at the time this claim arose, was a signal maintainer of the Chicago Terminal Crew and assigned to Tower A-5, Pacific Junction, Illinois, with hours from 7:30 A. M. to 4:00 P. M., with one-half hour for lunch, and Sundays off.

L. A. Mahnke, a regularly assigned relief signal maintainer, was on vacation from July 13 to 18, 1942, inclusive. No extra signal maintainer was available and the position being one necessary to the continuous operation of the railroad, Claimant was assigned to the relief assignments. These assignments had the hours from 3:00 P. M. to 11:00 P. M. on Friday, July 17, 1942, and from 11:00 P. M. to 7:00 A. M. on Saturday, July 18, 1942. Claimant was paid on a straight time basis for hours actually worked. On these two days Claimant only worked one hour of his regularly assigned shift, that is, from 3:00 P. M. to 4:00 P. M. on July 17, 1942.

Rule 13 of the parties' agreement provides:

"The hourly rates named herein are for an eight (8) hour day. All service performed outside of the regularly established working period shall be paid for as follows: Overtime hours, either prior to or following and continuous with the regular working period, shall be computed on the actual minute basis and paid for at the rate of time and one-half."

Rule 10 of the parties' agreement provides: "An employe will not be required to suspend work during regular working hours to absorb overtime."

Under the facts and these rules Claimant was entitled to be paid for eight hours straight time and seven hours overtime on July 17, 1942, and for eight hours straight time and eight hours' overtime on July 18, 1942. See Award 3301.

Carrier's contention with reference to the applicability of the Vacation Agreement has been fully disposed of by our Opinion in Award 3795 and will not be repeated here. We find the claim should be sustained.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

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;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Carrier has violated the Agreement.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 19th day of February, 1948.

DISSENT TO AWARD 3797—DOCKET SG-3811.

The record upon which this Award is predicated clearly indicates that the Vacation Agreement Committee dealt with but failed to agree on a decision in disposition thereof and to that extent the record differs from the situation present in and covered by our dissent to Award 3022—Docket SG-2979.

In other respects we adhere to and affirm our dissent to Award 3022—Docket SG-2979.

/s/ R. F. Ray,
/s/ C. P. Dugan,
/s/ A. H. Jones,
/s/ R. H. Allison,
/s/ C. C. Cook.