

NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION

Fred W. Messmore, Referee

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**PARTIES TO DISPUTE:**

**BROTHERHOOD OF RAILROAD SIGNALMEN OF AMERICA**  
**CHICAGO & EASTERN ILLINOIS RAILROAD COMPANY**

**STATEMENT OF CLAIM:** Claim of the General Committee of the Brotherhood of Railroad Signalmen of America on the Chicago and Eastern Illinois Railroad that:

T. & T. Maintainer Herman R. Selsor shall be paid a minimum call as provided in Rule 22 for work performed by him about 11:35 P. M., Sunday, February 20, 1949.

**EMPLOYEES' STATEMENT OF FACTS:** Herman R. Selsor is a regularly assigned T. & T. Maintainer with headquarters at Terre Haute, Indiana. He was called at his home on his telephone about 11:35 P. M. by a yard clerk at Locust Street, Terre Haute, on authority of Superintendent of Signals and Communications G. P. Neal and given instructions to report for duty at 5:00 A. M. Monday, February 21, 1949, to clear communication circuit trouble.

Claimant Selsor filed an overtime slip for a minimum call as provided in Rule 22 of the working agreement for the services he rendered to the Carrier in answering his telephone when it rang about 11:35 P. M., Sunday, February 20, 1949. His claim for a minimum call was denied by his superior officer, Mr. R. D. Simms, under date of March 1, 1949.

The claim was then processed in the usual manner on the property without securing a satisfactory settlement.

There is an agreement between the parties to this dispute bearing effective date of May 1, 1945, with certain revisions conforming with the March 19, 1949 Chicago Agreement establishing a shorter work week, which by reference is made a part of the record in this dispute.

**POSITION OF EMPLOYEES:** It is the position of the Brotherhood that the claimant is entitled to a full and undisturbed rest day on Sunday, February 20, 1949, and any work performed by him for the Carrier on a rest day must be paid for as required by controlling Rule 22, which for ready reference is quoted:

"Employees released from duty and notified or called to perform work outside of and not continuous with regular working hours, will be allowed a minimum of two (2) hours and forty (40) minutes at time and one-half rate; if held longer than two (2) hours and forty (40) minutes, they will be paid at the time and one-half rate computed on actual minute basis. The time of employees so notified will

so called less than two (2) hours and forty (40) minutes before his regular starting time, will be paid time and one-half until his regular starting time, and thereafter at straight time for the regular hours worked."

**POSITION OF CARRIER:** The sole issue in this dispute is whether an employe is entitled to compensation under the Call Rule for a telephone message received at 11:35 P. M. notifying him to report at 5:00 A. M. the following morning, two hours in advance of his assigned starting time. Claimant was compensated under Rule 22 for work actually performed in advance of his assigned starting time. It is Carrier's position that the agreement rules do not require that claimant be compensated in addition for the telephone message notifying him to perform the work in question.

In this case difficulty was experienced with Carrier's message and dispatcher phones at Terre Haute on Sunday, February 20, 1949. Attempts were made to reach T. & T. Maintainer H. R. Selsor at Terre Haute by telephone throughout that day and not until 11:35 P. M. was there any response to Carrier's telephone calls. Mr. Selsor was notified to report for work at 5:00 A. M. the following morning instead of 7:00 A. M. (his assigned starting time). He reported for work at the time called for and was properly compensated for such service in accordance with Rule 22 of the current agreement; however, time claim was submitted as outlined in Carrier's Statement of Facts.

Claimant was "notified" at 11:35 P. M. to perform work beginning 5:00 A. M. the following morning. Claimant was not "called" to perform any work at 11:35 P. M. or at any other time prior to 5:00 A. M. Rule 22 is specific as to the manner in which employes will be compensated for service thereunder, the applicable portion of such rule reading, " \* \* \* the time of employes so notified will begin at the time required to work and end when released. \* \* \* " Claimant was "notified" to report at 5:00 A. M. He reported at that time and was properly compensated for the work performed.

The fact that claimant was "notified" under the rule is clearly established by statement of the General Chairman in his letter of March 10, 1949 (Carrier's Exhibit "A") reading, " \* \* \* Whereas he was called at 11:35 P. M. and notified to report for work at 5:00 A. M. the following morning. \* \* \* " Further, in the second paragraph of Carrier's Exhibit "A" the General Chairman admits claimant " \* \* \* was not called to perform work at that time of night. \* \* \* " Again in Carrier's Exhibit "C" the General Chairman admits claimant was not "called" to perform work at 11:35 P. M.

It is apparent from the argument advanced by the General Chairman in correspondence that the claim is based solely on the premise that a "telephone call" made to an employe outside of the regular assigned hours is sufficient to obligate Carrier for a penalty under the Call Rule. Carrier's position is that no penalty is incurred under the Call Rule unless an employe does, in fact, perform work. The word "called" does not apply to the situation covered by this claim, i.e., a telephone message received, notifying an employe in advance to report for work at a given time.

Carrier submits that inasmuch as claimant was merely "notified" at 11:35 P. M. to report for work at 5:00 A. M. the following morning and performed no work until 5:00 A. M., there is no merit to the claim and it should be denied.

It is affirmatively stated that all data herein has been handled with representatives of the employes.

(Exhibits not reproduced.)

**OPINION OF BOARD:** The Claimant, Herman R. Selsor, is a regularly assigned T. and T. Maintainer. He is an hourly-rated employe with headquarters at Terre Haute, Indiana. At about 11:35 P. M., February 20, 1949, he

was contacted by telephone by Clerk Smith, acting on authority of the Signal and Communications Supervisor, and was notified to report for work at 5:00 A. M., the morning of February 21, instead of his regular reporting time which was 7:00 A. M. He was compensated for this work at the punitive rate.

The position of the Employees is that the Claimant was entitled to a full and complete rest day on Sunday, February 20, 1949, and any work performed by him for the Carrier on a rest day must be paid for as required by Rule 22. This Rule provides as follows: "Employees released from duty and notified or called to perform work outside of and not continuous with regular working hours, will be allowed a minimum of two (2) hours and forty (40) minutes at time and one-half rate; if held longer than two (2) hours and forty (40) minutes, they will be paid at the time and one-half rate computed on actual minute basis. The time of employees so notified will begin at the time required to report and end when released. The time of employees so called will begin at the time called, and end at the time they return to designated point at home station. An employee so called less than two (2) hours and forty (40) minutes before his regular starting time, will be paid time and one-half until his regular starting time, and thereafter at straight time for the regular hours worked."

The Carrier's position, simply put, is that the Agreement rules do not require that Claimant be compensated for the telephone message notifying him to perform work at a designated hour the following morning.

We believe Rule 22 is explicit as it applies to the facts in the instant case. Here the Claimant was notified to report for work at a designated hour, which he did. The hour that he reported constituted the beginning of his work. He performed no work previous to this time, as he acknowledges. We believe the Rule means that when an employee is notified to go to work at a certain designated time he will be paid from the time he reports to do the work and performs it in accordance with Rule 22. The mere fact he is called by telephone to do work does not constitute the performance of work.

Award 5864 lends support to the conclusion reached. The claim is denied.

**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 Employees involved in this dispute are respectively Carrier and Employees 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 claim should be denied.

#### AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon  
Secretary

Dated at Chicago, Illinois, this 26th day of February, 1953.