Award No. 6218
Docket No. SG-6129

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Peter M. Kelliher, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN OF AMERICA

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY
—Coast Lines—

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen of America on the Atchison, Topeka and Santa Fe Railway that Signal Maintainer O. E. Holland, Cajon, California, Los Angeles Division, be paid a minimum allowance of four hours at straight-time rate of pay on Saturday, March 20, 1948.

EMPLOYES' STATEMENT OF FACTS: About 4:30 A. M. Saturday, March 20, 1948, there was a failure of Signal No. 361 on the maintenance territory assigned to Signal Maintainer O. E. Holland and the Carrier called a Signal Maintainer from an adjoining territory to make necessary repairs to the signal which is a part of the signal apparatus assigned to the care of the claimant, O. E. Holland.

The claimant was adversely affected when the Carrier did not call him for this signal failure on his own assigned territory as he was available to the extent stipulated and required in Article II, Section 11 (a), and was willing to perform the work necessary to correct the signal failure.

The Carrier did not raise any question with respect to the claimant's competency while this claim was handled on the property; neither did it contend that the inspections and tests required to determine the cause of the signal failure was not work covered by the Signalmen's Agreement.

Formal protest against this violation of the Signalmen's Agreement was made in the usual manner on the property and appealed in proper order, without securing a satisfactory settlement.

There is an agreement between the parties to this dispute bearing effective date of February 1, 1946. This agreement by reference, is made a part of the record in this case.

POSITION OF EMPLOYES: The Brotherhood holds that the Carrier violated the provisions of the Signalmen's working agreement when it called and used a Signal Maintainer from an adjoining territory to perform maintenance work on the maintenance territory assigned to the claimant

decided. The purpose of the Railway Labor Act would be seriously restricted if such abortive procedure be permitted. The expeditious handling of claims and grievances, as required by the Railway Labor Act, requires that a final determination of a dispute by a carrier's highest officer designated to hear such matters becomes final unless an appeal is taken to this Board within a reasonable time thereafter. We are required to say that the denial of the claim on July 5, 1946, became final when the Organization failed to process it to this Board witin a reasonable time thereafter."

As explained in the Carrier's Statement of Facts, the employes have, in their handling of the instant dispute on the property, cited Article II, Sections 11 (a) and 11 (e) of the current Signalmen's Agreement as support for their claim. Insofar as concerns Article II, Section 11 (a), the Carrier has not only submitted conclusive evidence to show that there is nothing contained in that rule which could possibly be construed as granting a signal maintainer, such as Mr. Holland, a "preference to calls for work" on his assigned section under circumstances such as those existing in the instant dispute, but has also shown that the Brotherhood representatives have, by their past actions, accepted the Carrier's interpretation of that rule.

As to Article II, Section 11 (e), it will be readily apparent from the language contained therein that it only pertains to the "preference to calls for work" rights of employes who are scheduled or notified under Sections (b) and (d) of Article II to remain subject to call on **Sundays and holidays and has no application whatever to signal employes on other days of the week, such as March 20, 1948 which was Saturday.**

In conclusion, the Carrier reasserts that the claim of the Employes in the instant dispute is entirely without support under the Agreement rules and should, for the reasons expressed herein, be denied in its entirety.

All that is contained herein is either known or available to the Employes or their representatives. (Exhibits not reproduced.)

OPINION OF BOARD: On Saturday, March 20, 1948 fixed signal 361 failed and continued to display a red or stop indication. This signal was in the maintenance territory to which the Claimant is regularly assigned. The Carrier, however, called the signal maintainer from an adjoining territory but whose headquarters was closer to signal 361.

Section 11-(a) of the parties' effective Agreement provides that employes assigned to a section will "be subject to call" and will not leave their home section without permission.

This is a "stand-by" rule. In Award 5784 this Board is sustaining a claim wherein the Carrier had likewise failed to call an employe because it would have taken him longer to reach the trouble stated:

> "On both of these dates claimant was being held subject to call, was available and could and would have promptly responded had he been called." "Carrier suggests the trouble on these two dates created emergency situations because, to a certain extent, they affected train schedules, as evidenced by the train schedules cited. It is undoubtedly true that signal trouble will generally affect the train schedule to some degree, depending upon the extent of the trouble, but that would not immediately create an emergency situation. * * *"

Section 11-(b) in referring to paragraph (a) shows that employes do assume the "obligation of remaining subject to call" and the Carrier must, therefore, be found to have a corresponding obligation to permit these employes to perform work in connection with their position.

The Carrier establishes headquarters and determines the area of maintenance territories and must, therefore, be presumed to have made arrangements to adequately cover signal maintenance work of the type arising in this case.

It is for just this type of occurrence within this area that the Claimant held himself subject to call.

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 Employes involved in this dispute are respectively Carrier and Employes 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 Carrier violated the Agreement.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois, this 29th day of May, 1953.