

Award No. 9750

Docket No. SG-9402

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Donald F. McMahon, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILROAD SIGNALMEN
OF AMERICA**

WABASH RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen of America on the Wabash Railroad Company in behalf of:

1. M. W. Handley, Signal Maintainer, for hours worked on September 22, 26, 28, 29, October 3 and 4, 1955, this time spent on Moberly territory, while J. D. Allen, regularly assigned Signal Maintainer, was on vacation. Total, 39 hours.

2. N. E. Ray, Assistant Signalman, for hours worked on Moberly territory as shown on time slips of September 26, 28, and 29, 1955, while J. D. Allen, regularly assigned Signal Maintainer, was on vacation. Total, 22 hours.

3. Amos Fox, Signal Helper, for hours worked on Moberly territory as shown on time slips of October 3 and 4, 1955, while J. D. Allen, regularly assigned Signal Maintainer, was on vacation. Total, 14 hours.

EMPLOYEES' STATEMENT OF FACTS: Signal Maintainer J. D. Allen, with headquarters at Moberly, Missouri, whose assigned territory is from Coats Street, Moberly, Missouri, to the distant signal to Clark interlocking on the 14th District, and from Coats Street, Moberly, Missouri, to Evansville, Indiana, on the 12th District and other facilities, commenced his assigned vacation on September 19, 1955, consisting of three weeks.

No relief Maintainer was assigned to work this position during the period J. D. Allen was on vacation. Claimant M. W. Handley is also a Signal Maintainer, with headquarters at Moberly, Missouri, with assigned territory on the 17th District and other facilities. Since no relief Maintainer was assigned to work Allen's position while he was on vacation, it fell the duty of claimant Handley to protect and perform the work of both assignments while Allen was on vacation.

As a result of the Carrier's failure to provide a relief Maintainer to protect and perform the signal work on Signal Maintainer Allen's position while he was away for three weeks on vacation, it was necessary for claimant Handley, with the assistance of claimants Ray and Fox, who were assigned to him on the dates embraced in this claim, to perform work on the assigned territory of Signal Maintainer Allen, in addition to protecting and performing their assigned duties on their regularly assigned territory.

The claims have been submitted to the Carrier on the basis that Maintainer Handley performed more than twenty-five per cent (25%) of Maintainer Allen's work load. Assuming, but not admitting, that allegation be correct, the Carrier furnished help to Maintainer Handley. During the ten days additional help was furnished, four days and six hours performed by the helper were spent on Allen's territory and five days and two hours were spent on Handley's territory.

N. E. Ray and Amos Fox were directed to work as required by Maintainer Handley on either section. The time slip dated October 3 submitted by Handley making claim for himself and Amos Fox indicates that four hours were spent making test with the ICC Inspector of the MKT Crossings on Allen's territory. Mr. Fox's assistance was not needed for that work; yet, Mr. Handley did not give Mr. Fox any other work to perform for four hours or for a half day. The Carrier left the assignment of work to Amos Fox to the discretion of Maintainer Handley. Obviously in the judgment of Maintainer Handley, he either had no pressing work to perform or used poor judgment in taking Amos Fox with him for half day with no work to perform, and it is apparent Handley's section was in good shape and he was justified in taking Fox along on the inspection work to give Signal Helper Fox the benefit of that experience.

Maintainer Handley was definitely not overburdened when N. E. Ray and Amos Fox were assigned to assist him, and even though all three may have carried more than twenty-five per cent (25%) of the work load of Maintainer Allen, he was furnished sufficient assistance by additional help that he was not overburdened in looking after the two sections.

Relative to the claims of Employees Ray and Amos Fox for additional time, much has already been said. Ray and Fox had no assigned territory and were directed to work as required by Maintainer Handley. They obviously had no burden placed on them as they did the work as directed and had no responsibility in determining the work that should be performed and had no responsibility in regard to the work after Allen returned from vacation.

Obviously Fox and Ray were used as a type of relief worker to eliminate placing excess burden on Handley. There are no rules which support their claims for two days' pay on the dates they performed work on Allen's section. There is no basis under the rules for two days' pay for one day's work when working on Allen's section when the gangs to which they are regularly assigned to work, normally worked on any and all sections as the demands of the service required.

All three claimants were paid for all service performed on each date that claim is made. There are no rules which require that claimants be paid double.

In view of the fact that all claimants were paid as required by the rules, the claim is without merit and should be denied.

The substance of all matters referred to herein has been the subject of correspondence or discussion between representatives of the parties hereto and made a part of the question in dispute.

(Exhibits not reproduced)

OPINION OF BOARD: Three claims are included in the docket before us and will be discussed as set forth in the Statement of Claim as alleged by the Organization.

The regular assigned Signal Maintainer J. D. Allen on Districts 12 and 14 was allowed his regular vacation as involved here, from September 19 to October 7, 1955; during his absence, the districts were maintained by Signal Maintainer Handley, who held a regular assignment on District Nos. 15

and 17. That during this period the claimants were used by Carrier to perform some service on the districts of the vacationing employee. The record shows that neither Allen or Handley had an Assistant or Helper assigned to them regularly, nor is there any evidence before us that Carrier assigned any relief employees to Allen's assignment during his vacation period.

As to Claim No. 1—M. W. Handley, it is contended that Carrier required claimant to perform the duties of Allen, in addition to the performance of the duties of his regular assignment, and as a result claimant was required to perform service for a period of thirty nine hours on the Allen assignment in addition to work required on his own regular assignment, on dates specified in the Statement of Claim.

Claim No. 2 is on behalf of N. E. Ray, Assistant Signal Maintainer, who held an assignment with a system gang on the Moberly territory. From the facts on record this claimant was assigned to work under the supervision and direction of Maintainer Handley during a portion of the period of time involved in the claims here involved. Claimant Ray alleges he was required to perform work on both the territories assigned to Handley and Allen for a period of twenty-two hours, for which claim is made on behalf of this employee.

Claim No. 3 in behalf of Signal Helper N. E. Fox, who held an assignment with a system gang in the Moberly territory, and as alleged in Claim No. 2 was assigned to work under the direction and supervision of Maintainer Handley, and did perform service on the Allen assignment during the period involved here and for such service claim is made for twenty-two hours additional pay, as alleged by the Organization.

For the alleged services performed, as here claimed by the Organization, it is contended that Carrier has violated the provisions of the 1941 National Vacation Agreement as provided in Articles 6 and 10 (b). It is contended further the Carrier required more than 25% of the work load of the vacationing employee to be performed by claimants herein named without the hiring of a relief worker to perform such service. The Organization relies upon the provisions of Rule No. 22 of the effective Agreement between the parties to support its contentions for continuous pay allowances from time of reporting for service to time released at home station, including time for travel, waiting, etc.

Carrier for its defense to the allegations of the Organization, denies any violation of the provisions of either the National Vacation Agreement or the effective Agreement between the parties hereto, and takes the position that claimants were properly paid for all services rendered, and further relies upon the interpretations put upon the National Vacation Agreement by the Honorable Wayne Morse and numerous awards of this Division to support its contentions.

The Board after a review of the record here before us and the applicable interpretation of the Vacation Agreement, is of the Opinion the claim of M. W. Handley is amply supported. There is evidence here that claimant Handley was burdened with extra work on the districts of the vacationing employee. This is evidenced by the assignment of two assistants to claimant to perform service under his supervision and direction, and who did perform services on both the claimant and the vacationing employees districts. Claim No. 1 should be sustained.

As to Claims No. 2 and 3, we believe that the interpretation placed upon Article No. 6, of the National Vacation Agreement, does not necessarily place