

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Carl R. Schedler, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN OF AMERICA

THE TEXAS AND PACIFIC RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen of America on the Texas and Pacific Railway Company that:

(a) The Carrier violated and continues to violate the Signalmen's Agreement when it assigned employees who are classified and paid as hourly-rated Signalmen to perform the duties of supervising the work of small gang of employees.

(b) Effective March 1, 1956, the employees listed below be given the Foreman's rate of pay and classification, as follows:

T. C. Sellers, Signalman, Signal Gang No. 1-A.
J. P. Burger, Signalman, Signal Gang No. 2-A.
J. L. Shelton, Signalman, Signal Gang No. 3-A.
B. J. Bass, Signalman, Signal Gang No. 3-B.

[Carrier File No. T-29777]

BROTHERHOOD'S STATEMENT OF FACTS: The signal employees on this Carrier's property have system seniority with rights over the entire system. This Carrier maintains several large system signal gangs, all of which are under the direction and supervision of a Signal Foreman.

This Carrier has at this time five Signal Supervisors over its entire system, each of whom has small signal gangs assigned to the territory of which he has jurisdiction. Each of these are within themselves complete and separate Signal Gangs and are in no way a part of the System Signal Gangs. The small Signal Gangs, such as those embraced in the instant claim, are used to perform maintenance work, installation of highway crossing protection equipment, electric lock installations, and any other work that they can perform within themselves on the Supervisor's territory to which assigned.

The Brotherhood's contentions in those Awards, like its prior contentions on this property, show clearly that its present contention is contrary to the mutual understanding of the parties which has been in existence for many years.

It necessarily follows from what has been said that the present claim is not only supported by the agreement, but is contrary to the agreement. Therefore, the Board should proceed to enter a denial award.

All known relevant argumentative facts and documentary evidence are included herein. All data submitted in support of Carrier's position has been presented to the employees or duly authorized representatives thereof and made a part of the particular question in dispute.

(Exhibits not reproduced.)

OPINION OF BOARD: The four Claimants, whose names appear hereinabove, assert that they should have been given the Foreman's classification and rate of pay effective March 1, 1956, because they were the senior men in their Signal parties or Auxiliary gangs, and thus were in charge of those Signal parties on March 1, 1956. The Carrier does not deny that the Claimants were working on March 1, 1956 as the senior member in charge of a small Signal gang. The Carrier does deny the assertion that the Claimants were being used as foremen, or that foremen should have been used. The Agreement provides that a foreman is not required unless the supervisor is supervising more than five men. The record in this case clearly establishes that the Claimants were not supervising more than five men.

The record discloses that since about 1930 this Carrier has worked Signalmen in two generally separate groups, without any seniority distinction, one such grouping known as regular numbered gangs which always have a foreman to supervise. The other grouping consists of Signal parties or Auxiliary gangs which may have 2, 3, 4 or 5 men and which work under the highest ranking member of the party or crew, and the supervisor, permitted by the Agreement, is always below the rank of foreman unless he supervised more than five other people. The present controversy stems from the Organization's claim that the worker directing the work of this second grouping should be a foreman. It is the opinion of this Board that there is no merit in such a claim.

The Organization also contends that the Signal party or Auxiliary gang was doing new construction work and not maintenance work and for that reason alone the leader of this group should be classified as a foreman. Neither the Agreement nor custom on this property provides for any such distinction if it is found that such a contention is a fact. The record discloses to our satisfaction that the Signal party or Auxiliary gang complained of in this case were engaged in maintenance work and not new construction work. It is our opinion that the reasoning contained in Third Division Award 3194 is applicable to the instant case, and that no basis for an affirmative award exists.

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

That the parties waived oral hearing;

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 the Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **THIRD DIVISION**

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 16th day of February 1962.