

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Jerome A. Levinson, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN OF AMERICA

SOUTHERN PACIFIC COMPANY (PACIFIC LINES)

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen of America on the Southern Pacific Company (Pacific Lines):

(a) That the Carrier violated and continues to violate Rule 75, as amended effective April 16, 1954, and other provisions of the current agreement, when it failed and/or refused to properly compensate Mr. Harold Moss, whose duties include the maintenance of interlocking plants with three (3) or more power-operated switches and who works under a Leading Signal Maintainer who receives a six-cent (6¢) per hour differential for such work.

(b) That Mr. Harold Moss, who was assigned by Signal Department Notice No. 769, dated October 19, 1956, be paid the six-cent (6¢) per hour differential for all hours worked since November 5, 1956, the date he actually commenced work on the position. (Carrier's File No. SIG 145-116)

EMPLOYEES' STATEMENT OF FACTS: Under date of October 19, 1956, the Carrier assigned the claimant, Harold Moss, to the position of Signalman in Signal Gang No. 1, with headquarters at West Oakland, California, by Signal Department Notice No. 769. Claimant Moss first commenced work on the Signalman's position in Signal Gang No. 1 on November 5, 1956.

Signal Gang No. 1 to which claimant Moss was assigned consists of a Leading Signal Maintainer, who is in charge of the gang, the claimant and an Assistant Signalman. The duties of Signal Gang No. 1 entail the maintenance, inspection, testing, repair, adjusting, and other maintenance duties of the six (6) interlocking plants and other signal systems within the Oakland area.

Despite the fact that the claimant is assigned to Signal Gang No. 1, his regular assigned duties include maintenance of the interlocking plants in addition to the added skill and knowledge that is required of the claimant to perform the periodic inspections and tests required and finding and relieving grounds on the interlocking circuits, trouble shooting on the interlocking plants and signal systems, changing out time keys, relays, defective wires,

with the duties and operation of Signal Gang #1 from the year 1947 to the present date. These statements indicate duties of Signal Gang #1 do not include maintenance of interlocking plants with three (3) or more power-operated switches, etc.

In the statement of claim in this case the following appears:

“. . . where it failed and/or refused to properly compensate Mr. Harold Moss . . . who works under a Leading Signal Maintainer who received a six (6¢) per hour differential for such work.”

The fact that claimant works under a Leading Signal Maintainer who receives a 6¢ per hour differential is irrelevant. Carrier has fully explained in its statement of facts herein that the classification “Leading Signal Maintainer” and the 6¢ per hour differential have been applied to claimant’s immediate supervisor as the result of a clerical error coupled with the application of Section 1(a) of Article V, of the agreement of August 21, 1954; and in those circumstances, by the specific language of the rule, no precedent is established nor does it constitute a waiver of carrier’s contentions as to other similar claims. For convenient reference, Section 1(a) of Article V is here quoted.

“(a) All claims or grievances must be presented in writing by or on behalf of the employe involved, to the officer of the Carrier authorized to receive same, within 60 days from the date of the occurrence on which the claim or grievance is based. Should any such claim or grievance be disallowed, the carrier shall, within 60 days from the date same is filed, notify whoever filed the claim or grievance (the employe or his representative) in writing of the reasons for such disallowance. If not so notified, the claim or grievance shall be allowed as presented, but this shall not be considered as a precedent or waiver of the contentions of the carrier as to other similar claims or grievances.”

Under the clear provisions of Rule 75, the Leading Signal Maintainer working with claimant on Signal Gang #1 would not be entitled to the 6¢ per hour differential provided for therein because he does not perform the duties required to qualify for that rate.

CONCLUSION

Carrier requests that this claim be denied.

All data herein have been presented to the duly authorized representative of the employes and are made a part of the particular question in dispute.

(Exhibits not reproduced.)

OPINION OF BOARD: Claimant was assigned position of Signalman and commenced work as a member of Signal Gang Number 1, consisting of a Leading Signal Maintainer, Signalman (Claimant) and Assistant Signalman, and known as a “megger gang” used primarily to make tests and inspections.

Employes asserted that Claimant’s duties included maintenance—“making repairs to the essential parts” of interlocking plants with three or more power operated switches and that he worked under a Leading Signal Maintainer whose duties included maintenance of such plants, therefore Claimant was entitled to power switch differential of six cents per hour over the basic rate

of his assigned position. Employees stressed the proposition that Claimant's duties included maintenance of these interlocking plants — an employe so classified need not be assigned to their maintenance in order to be entitled to the pay differential.

Carrier maintained that the claim could not be sustained because the power switch differential was provided by contract for only Signal Maintainers and Leading Signal Maintainers whose duties included maintenance of the specified equipment, and not for either Signalmen or Leading Signalmen. Carrier further urged that the circumstance that Claimant worked under a Leading Signal Maintainer who received the differential did not entitle Claimant to the same differential. In fact, Carrier asserted, the particular Leading Signal Maintainer acquired that position through an error in bulletining and its oversight in not observing the applicable time limit within which to deny a claim made after it abolished the position, and he should have been assigned to position of Leading Signalman. Finally, Carrier maintained that Claimant's duties, as a member of Signal Gang Number 1, included the taking of operating values, meggering and checking signal apparatus in accordance with I.C.C. rules, involving inspection of relays, signals, etc.; but that he did not in fact perform maintenance duties assigned to Signal Maintainers such as adjustments, except to correct adjustment to meet I.C.C. requirements, and replacement of defective parts unless hazardous conditions were found when tests were made.

Rule 75 of the Agreement between the parties effective April 1, 1947, as revised effective April 16, 1954, was in relevant part as follows:

"Classification	Rates of Pay
.....	
"Leading Signal Maintainers whose duties include maintenance of Centralized Traffic Control Systems, Car Retarder Systems, or Interlocking with three or more power operated switches	2.015 per hour
"Signal Maintainers whose duties include maintenance of Centralized Traffic Control Systems, Car Retarder Systems, or Interlocking with three or more power operated switches	1.955 " "
"Leading Signalmen and Leading Signal Maintainers	1.955 " "
"Signalmen and Signal Maintainers	1.891 " " "

Claimant was assigned to position of Signalman, and he was referred to as such by both parties. He was not a Signal Maintainer or Leading Signal Maintainer, nor was it asserted that he should have been reclassified. Neither was it shown that Claimant's duties in fact were those of a Signal Maintainer. As a Signalman, he was not expressly provided the six-cent power switch differential furnished by Rule 75 for incumbents of the latter two classifications whose duties included maintenance of Interlocking with three or more power operated switches. Nor could a right to such a differential for a Signalman be implied from the plain language of Rule 75. Thus, there was no contractual support for the claim. Award 10330.

The fact that Claimant worked under an employe classified (whether rightly or wrongly) as a Leading Signal Maintainer with responsibilities in connection with the specified equipment, was not controlling.

The Board concludes that the claim must be denied.

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 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 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 3rd day of August 1962.