

Award No. 11021

Docket No. SG-10526

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Roy R. Ray, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN OF AMERICA

**THE CHESAPEAKE AND OHIO RAILWAY COMPANY
(CHESAPEAKE DISTRICT)**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood of Railroad Signalmen of America on the Chesapeake and Ohio Railway (Chesapeake District) that:

(a) The Carrier violated the Signalmen's Agreement, particularly Rule 43, when on Sunday, May 19, 1957, it laid off Signal Helpers G. B. Burton, C. E. Phelps, and W. W. Morton, who were members of this Carrier's Russell Division Signal Gang No. 70, and assigned four signal employes of its System Signal Gangs to the Division Signal Gang to take the place of the claimants and perform the signal work they would have normally performed.

(b) The Carrier now be required to compensate Signal Helpers G. B. Burton, C. E. Phelps, and W. W. Morton for ten (10) hours at the overtime rate of pay, which is the number of hours worked and rate of pay received by the System Gang employes for the services performed on May 19, 1957. [Carrier's File No. SG-115.]

EMPLOYEES' STATEMENT OF FACTS: On the date of the instant claim, the claimants, Signal Helpers G. B. Burton, C. E. Phelps, and W. W. Morton, were regularly assigned to the Russell Division District Signal Gang No. 70, under Signal Foreman R. L. Purcell.

On the date of the instant claim the Carrier had two System Signal Gangs which were not located at Russell, Kentucky, the point where the Russell Division District Signal Gang was working immediately prior to May 19, 1957. The System Signal Gangs under Signal Foreman B. Sammons was located at Gauley Bridge, West Virginia, and the other System Signal Gang under Signal Foreman C. E. Dean was located at Mount Carbon, West Virginia. Both System Signal Gangs were located in excess of 100 miles from the point where the Russell Division District Signal Gang, to which the claimants were regularly assigned, was located.

Helper Rule

While the Employees have not cited this rule, it (Rule 6) reads:

"An employe assigned to assist other employes specified herein shall be classified as a signal helper. A signal helper working alone, or two or more helpers working together, may perform work recognized as helpers' work. A helper as such shall not be assigned to do work recognized as that of other classes named in this agreement."

As there has been no contention that the two helpers from the system gang performed other than helper work, there is plainly no conflict with this rule.

CONCLUSIONS

The Carrier has shown:

1. That the work in dispute was work properly assigned to system signal gang employes under Rule 43.
2. That the "helper work" at issue was work attaching to signalman work being performed by system gang signalmen.
3. That, therefore, the system signal gang helpers assigned to perform such helper work were properly used.
4. That there has been no violation of any agreement rule, and the claim should be denied in its entirety.

All data contained in this submission have been discussed in conference or by correspondence with the Employee Representatives.

OPINION OF BOARD: Claimants are Signal Helpers — regularly assigned to Carrier's "Division Signal Gang" working out of Russell, Kentucky. Such gangs normally handle repair and light construction work on the Division. Heavy construction work required on various divisions is normally performed by "system gangs" specially equipped for such purpose. These are made up of signal employes from various divisions. At Russell, Kentucky, a new electrical interlocking station called RJ Cabin was being constructed and a "system gang" was brought in for the work. Before the work was completed the "system gang" was moved elsewhere for other construction. Later in connection with the completion of the RJ Cabin project certain members of the "system gang" including two helpers, were brought back to Russell on Saturday and Sunday, May 18 and 19, 1957, to make necessary circuit changes and to hook up circuits cutting in the new system.

The Organization contends that Carrier violated Rule 43(a) of the Agreement when it failed to use Claimant Helpers, members of the home division signal gang, on Sunday, May 19th, their rest day, when the system gang was performing the above work at Russell.

Rule 43(a) reads:

"System signal gangs will be established. No system gang or any part thereof will be worked on a home seniority district unless there is at least one home seniority district gang at work thereon."

The Organization claims this means that at no time can a system gang or any part thereof be used on Claimant's Home Seniority District until and unless all of the Home Seniority Division Gang employees are working, and since Claimants were not working on the claim date, the Organization says the rule was violated.

Carrier says Claimants were not worked on the date in question because not needed; that Rule 43(a) has never been given the extreme interpretation insisted upon by the Organization, and that the purpose of the rule was to prevent use of system gangs to do away with work normally performed by division gangs; and the work involved here was not of that type; rather it was of the type (new construction) which system gangs are set up to perform.

We believe that Carrier's position is sound. To sustain the Organization's contention, we would have to hold that Rule 43(a) means that no system gang member may work unless all members of the home division gang are working at the same time. We do not believe that 43(a) was intended to mean that every member of a home division gang must work the identical hours and minutes any member of a system gang happen to work. This just does not make sense. We think the clear purpose of Rule 43(a) was to insure that system gangs would not be used to eliminate home division gangs in the performance of the work the latter normally perform. The use of the system gang in this instance did not threaten Claimants' jobs or deprive them of any work to which they were entitled. The work here was construction of a new installation, the type which system gangs regularly perform and to which they are confined with certain specified exceptions by the second paragraph of Rule 43(a). The Claimants here had worked their full 40 hour week and were on their rest days. Under the circumstances, we consider that the home division gang was at work on the Home Seniority District on the claim date within the meaning of the language of Rule 43(a), although Claimants were actually observing their rest days. For the reasons stated, we conclude that Carrier's action did not violate Rule 43(a) of the Agreement.

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 11th day of January 1963.