

Award No. 12087
Docket No. SG-11433

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Joseph S. Kane, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

SOUTHERN PACIFIC COMPANY (PACIFIC LINES)

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Southern Pacific Company that:

(a) The Southern Pacific Company violated the current Signalmen's Agreement, effective April 1, 1947 (reprinted April 1, 1958 including revisions), particularly the Scope Rule and Rules 16 and 70.

(b) Mr. G. M. Nisle be paid three and one-half (3½) hours at the overtime rate for June 25, 1958, and seven and one-half (7½) hours at the overtime rate for June 26, 1958. [Carrier's File: SIG 152-59]

EMPLOYEES' STATEMENT OF FACTS: On June 25, 1958, Mr. G. M. Nisle was the Signal Maintainer at Ashland, Oregon. On that date a derailment occurred on his territory and employes from other departments worked from about 8:30 P. M., June 25, 1958, until about 7:30 A. M., June 26, 1958. During that period of time, Mr. Nisle was not called and employes who are not covered by the Signalmen's Agreement performed work that is covered by the Scope of that agreement.

On arriving at work on the morning of June 26, 1958, Mr. Nisle was informed by the Roadmaster that a damaged switch point was to be changed at the derail and that there were no broken bond wires. The Trainmaster informed Mr. Nisle that he did not think the switch box was damaged.

As employes who are not covered by the Signalmen's Agreement had performed signal work, Mr. R. P. Smick, Local Chairman, presented the following claim dated August 20, 1958, to Mr. R. G. Hickerson, Signal Supervisor:

"The following claim is presented to you on behalf of Signal Maintainer G. M. Nisle, of Ashland, Oregon:

with derailed cars and no trains could be run until the following morning after the line was cleared, which could be after the signal maintainer's regular assigned hours.

"Mr. Collins did have Maintainer Nisle notified of the derailment shortly after he came on duty the following morning as well as the necessity of bonding a switch point which was found to be damaged and was necessary to change out."

From the foregoing it is readily apparent that the Trainmaster and Roadmaster present at the scene of the involved derailment performed no service whatever that in any way encroached upon work reserved to signalmen. The general inspection or survey which they took of the situation was within their proper sphere of activity and in no way invaded the field of signalmen's duties.

The General Chairman's inspection theory is not only inconsistent with claimant's written statement made at the time of the occurrence, but it is also inconsistent with the claim presented. Even the General Chairman does not contend that inspection of signal devices was being made during the entire 11 hours for which claim is made, and in view of the minor amount of signal work involved, any such contention would be preposterous.

The facts in this case are undisputed on the point that the track at the location involved was completely blocked by the derailment and no train movements could be made. Therefore, the first consideration was the clearing of the rails. That operation precluded the making of the required minor repairs to signal equipment even if claimant had been called. There was no signal work necessary prior to the on-duty time of claimant on the date involved and therefore there was no necessity for calling him.

Furthermore, it is the prerogative of management to decide when work will be done, and even if there had been a need for claimant's services before his regular on-duty time, carrier's decision to let the work stand until after his on-duty time would not constitute a proper basis for claim or complaint.

This claim is obviously invalid in its entirety; but even if it were valid, the penalty allowable would only be at the straight time rate and not at the overtime rate claimed — see Awards 7094, 7222, 7239, 7242 and 7316, to cite but a few.

CONCLUSION

Carrier request that the claim be denied.

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

(Exhibits not reproduced.)

OPINION OF BOARD: In the evening of June 25, 1958, a derailment occurred at the east end of the yard at Ashland, Oregon, blocking the track to all train movements. The line was cleared at approximately 7:00 A. M., June 26, 1958.

Upon reporting for duty on his assignment, June 26, 1958, the Claimant was informed of the derailment by the Roadmaster and advised that a damaged switch point was to be changed at the derail and that there were no broken bond wires. The Trainmaster informed the Claimant that he did not think the switch box was damaged.

The question to be determined is whether the oral expressions of the Carrier's Officers were a violation of the Signalman's Scope Rule?

We do not consider that the casual observations made by the Carrier's Officers and the information they conveyed to the Claimant are testing and inspecting as contemplated by the Scope Rule 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 14th day of January 1964.