Award No. 12181
Docket No. SG-11605

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Joseph S. Kane, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

GULF, COLORADO AND SANTA FE RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Gulf, Colorado and Santa Fe Railway Company:

> In behalf of W. L. Dowdy and B. B. Gaddis for payment of thirteen hours at the overtime rate of Signalman or Signal Maintainer for routine signal work of that classification they performed from 12:00 A. M. to 3:00 A. M. and from 7:00 A. M. to 6:00 P. M. on July 4, 1958, in addition to whatever they were paid on their monthly salaries as Signal Inspectors; and in behalf of Signal Maintainers J. H. Culpepper and A. M. Cox, the nearest available Signal Maintainers who could and should have been called to perform the routine work which was performed by Messrs. Dowdy and Gaddis, for payment of thirteen hours at their overtime rate of pay on July 4, 1958. [A.T. & S.F. File: 132-91-3; G.C. & S.F. File: 4-A-1-B]

EMPLOYES' STATEMENT OF FACTS: About 5:10 P. M. on July 3, 1958, Signal Inspectors W. L. Dowdy and B. B. Gaddis were notified at Fort Worth that a train had derailed near Polks Interlocking Tower at Fort Worth, so they immediately went to the scene of the derailment and discovered that the derailment had demolished a switch machine and a signal. They worked there until about 3:00 A. M. on July 4, 1958, clearing trouble on the interlocking and installing a temporary signal. Before they were released at 3:00 A. M. on July 4, 1958, the Signal Supervisor instructed them to report to North Fort Worth at 7:00 A. M., July 4, 1958, to take a switch machine to Polks and install it, and replace the signal that was destroyed. They followed those instructions, working from 7:00 A. M. until 6:00 P. M. on July 4, 1958.

Messrs. Dowdy and Gaddis submitted overtime reports for the first half of July, claiming thirteen (13) hours overtime pay for the actual time worked on July 4, 1958. They were denied payment for the overtime claimed and again reported this overtime on the reports for the last half of July, and the overtime was again denied.

Under date of August 28, 1958, Mr. B. F. Johnson, Local Chairman, presented a claim to Mr. O. D. Crill, Superintendent, as follows:

In conclusion, the Carrier respectfully reasserts that the Employes' claim in the instant dispute is entirely without support under any rule in the current Signalmen's Agreement and should be denied for the reasons heretofore expressed.

The Carrier is uninformed as to the arguments the Employes will advance in their ex parte submission and accordingly reserves the right to submit such additional facts, evidence and argument as it may conclude are necessary in reply to the Organization's ex parte submission in this dispute.

(Exhibits not reproduced.)

OPINION OF BOARD: At approximately 5:10 P. M. on July 3, 1958, two Claimants, Signal Inspectors reported at Fort Worth, Texas as a result of a derailment which demolished a switch machine and signal. They remained on the job until 3:00 A. M. on July 4, 1958, clearing trouble on the interlocking and installing a temporary signal. Prior to leaving they were told to report to North Fort Worth at 7:00 A. M., July 4, 1958, to take a switch machine to Polks, install it, and replace the signal that was destroyed. They complied with these instructions and worked from 7:00 A. M. until 6:00 P. M. on July 4, 1958. For this work they submitted claims for payment of thirteen hours overtime for the routine Signalman or Signal Maintainer work of that classification they performed from 12:00 A. M. to 3:00 A. M. and from 7:00 A. M. to 6:00 P. M. on July 4, 1958. This payment to be in addition to whatever they were paid on their monthly salaries as Signal Inspectors.

Additional claims were presented on behalf of Signal Maintainers J. H. Culpepper and A. M. Cox, the nearest available Signal Maintainers who could and should have been called to perform the routine signal work performed by the Signal Inspectors. This latter claim was for thirteen hours at the overtime rate of pay on July 4, 1958.

The Claimants, Signal Inspectors contended that they were required to perform routine Signal Maintainers work and should be compensated for it. Also under Article II, Section 11-(a) 2, the Signal Maintainers who hadn't been called and were available, were entitled to compensation for the routine signal work performed by the Signal Inspectors.

The Carrier contended that under Section 2 of Article I of the Agreement, inspectors may perform any Signal Department work. Furthermore, Section 1, Article V, of the Agreement provides that the inspectors monthly rate covers all work performed on all days except Sunday. The work days concerning us here were Friday and Saturday.

An examination of the pertinent facts in this dispute reveals that Article I — entitled Classifications is composed of 8 job classifications and descriptions whereby signal positions are titled and described. The position of Signal Inspector is ambiguous in that it describes the work of the position and then includes the catch all phrase ". . . but who may perform any Signal Department work, shall be classified as a Signal Inspector." Thus the position includes the work of the other 7 classifications. Hence we are of the opinion, due to this ambiguity, we can go beyond the written Agreement and seek what the parties intended by this description; rather than rewrite any new or additional terms not intended by the parties. Award No. 8563 in support of the meaning and importance of job classifications is cited as follows: "The protection of job classifications is a legitimate concern of employe representatives

and quite generally is one of the prime objectives of collective bargaining agreements."

In an exchange of letters between the Organization and the Carrier in seeking to find an understanding of Article I, Section 2 it was stated that during the 1945 negotiations it was understood as follows:

> "Not intended to permit supplanting a maintainer or signal foreman etc. unless in emergency. Means may make any repairs found in process of work and may also assist other employes or even be added to a signal gang if time not otherwise filled by inspection and allied duties."

This statement was never denied by either party. In the facts and circumstances at hand we are concerned with an emergency for that is what a derailment is. This statement in the record leads us to the opinion that during the negotiations the parties understood that the Inspectors could be used in emergencies to do any Signal Department work and be in compliance with Article I, Section 2 of the Agreement. An examination of the entire record in this dispute shows that the application of the rules was according to the above understanding.

The next question to be determined is: Were the classified maintainers, Claimants herein supplanted by the Inspectors? Our answer is no. Article II, Section 11-(a)-2 states:

> "Unless registered absent, the employe assigned to a territory shall be called to perform necessary work outside of assigned hours on that territory. . . ."

The Claimants were assigned to the Dallas territory, the derailment was in the Fort Worth territory and 3 maintainers of the latter territory were used. A quotation from the record by the Carrier and not denied by the Organization:

> ". . . The instant case, however, as previously indicated herein, does not involve such circumstances as the Signal Maintainers on whose territory the accident occurred were properly called and used to perform the work."

This statement was further supported by a diagram of the respective territories of each maintainer involved and not disputed. There is no rule requiring a maintainer to be used outside his territory. The reason for such rule being absent is in order that each maintainer shall be available to protect his own territory.

It must also be borne in mind that this Board cannot rewrite Agreements. It can attempt to prove the meaning of written words not by showing that parties intended them to mean something different from what meanings other persons would attach to them, but to prove how the parties were dealing in regard to a matter, to secure an objective, or under circumstances where the language in writing would have a particular meaning. The preliminary negotiations as expressed in the record can be used only to show the intention of the parties not to subject them to an agreement not expressed in the writing, but to show that the words of the writing bear a particular meaning. If we could go outside the Agreement to prove that there was a stipulation missing,

and only part of the contract was in writing and part oral there would be little value in the written Agreement.

Thus we are of the opinion that from a review of the Agreement and the record the Agreement has not been violated and no Signal Maintainer has been supplanted within his territory.

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 Contract has not been violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty.
Executive Secretary

Dated at Chicago, Illinois, this 7th day of February 1964.