

Award No. 12520
Docket No. SG-11978

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Lee R. West, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

LOUISVILLE AND NASHVILLE RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Louisville and Nashville Railroad Company:

In behalf of Mr. T. C. Jones, Signalman, and the senior available Signal Helper, for two hours and forty minutes time each at their respective overtime rates of pay on account of not being called for overtime service on January 31, 1959, and junior employes of the class involved being used in violation of Rule 17 (d) of the current Signalmen's Agreement. [Carrier's File: G-304-18, G-304]

EMPLOYEES' STATEMENT OF FACTS: On January 31, 1959, Assistant Signalman V. R. Stansberry, regularly assigned to Evansville Division Signal Gang No. 17, was called at approximately 5:50 P.M. to make repairs to signal apparatus on the Carmi, Illinois, signal maintenance territory at the Wabash River Bridge. A track department employee was also called by the Carrier to assist Assistant Signalman Stansberry in clearing the signal failure. Both employees were paid two hours and forty minutes each at the overtime rate of pay for such service, Assistant Signalman Stansberry being paid at the Signalman's overtime rate of pay, and the track department employee being paid at the Signal Helper's overtime rate of pay.

Signalman T. C. Jones was also assigned to Evansville Division Gang No. 17 and was a senior employe to Assistant Signalman Stansberry, but was not called or used for the overtime service on January 31, 1959.

In view of the fact that Assistant Signalman Stansberry, a junior employe, was called to perform overtime service at the Signalman's rate of pay, and also in view of the fact that a track laborer was called and used to perform signal work in place of a Signal Helper, the following claim was filed by Local Chairman G. L. Choate with Mr. E. S. Williams, Signal Supervisor, under date of March 6, 1959:

"At or about 5:30 P. M. on February 1, 1959 Mr. V. R. Stansberry, a regularly assigned Assistant Signalman in Evansville Division Signal Gang No. 17, was called to make repairs to signal apparatus at

Carrier submits, in the circumstances, there is obviously no basis for any claim in behalf of cut-off helper J. Brown who, at the time involved, was living at Cloverport, approximately 100 miles from the point of trouble.

As to the Employes' contention (2) that the use of Signalman Stansberry, who was assigned to Gang No. 17 and available at Carmi, instead of Signalman T. C. Jones, who lived at Dahlgren, Illinois—43 miles from the point of trouble—was violative of Rule 17 (d):

Rule 17 (d) reads as follows:

“When overtime service is required of a part of a group of employes who customarily work together, the senior available employes of the class involved shall have a preference to such overtime if they so desire.”

The above provision refers to “overtime service” required of a part of a group and not to “emergency service” such as here involved.

Attention is called to the fact that the rule refers to the “senior available” employe.

A common-sense interpretation of the word “available”, with respect to an emergency situation, shows conclusively that the intent was to use the senior employe most readily available. By practice the rule has been so interpreted.

As has previously been shown, Stansberry, the signalman used, was available at Carmi only about ten miles from the point of the signal trouble; Claimant, Signalman Jones, lived at Dahlgren about 43 miles from the signal trouble and Claimant, Helper J. Brown, who was cut off at the time, lived at Cloverport about 100 miles from the point of trouble.

Carrier submits, in view of the circumstances involved, there is no basis for the claim and same should, therefore, be denied.

OPINION OF BOARD: This claim arises on behalf of T. C. Jones, Signalman and the senior available Signal Helper (unnamed) by reason of Carrier's assigning overtime work to a junior employe, V. R. Stansberry on January 31, 1959.

The work involved is repairs to signal apparatus at the Wabash River Bridge at Carmi, Illinois.

The Organization concedes that the Signal Helper was off-call at the time the work was done and the claim on behalf of the unnamed Signal Helper is denied for this reason.

The Organization contends that Claimant, T. C. Jones, being senior to Assistant Signalman Stansberry, should have been called for the overtime service and cites Rule 17 (d) which reads as follows:

“(d) When overtime service is required of a part of a group of employes who customarily work together, the senior available employes of the class involved shall have a preference to such overtime if they so desire.”

Carrier points out that Claimant lives 33 miles from Carmi, the point where the work was to be done while Stansberry lives in Carmi. We therefore hold that Claimant is not the "senior available employe" within the meaning of Rule 17 (d) and that under the circumstances of this case, Stansberry was properly assigned. For this reason, 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 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 21st day of May 1964.