

Award No. 12636
Docket No. SG-11780

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Bernard J. Seff, 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 Signal Maintainer J. A. Tanner and Signal Helper H. D. Basham that the Carrier violated the current Signalmen's Agreement and especially Rule 18(a) when it failed to call them for service to be performed on their assigned territory at about 4:55 P. M., October 18, 1958, and instead called the Signal Maintainer and Helper from the adjoining territory. Because of that violation, they are entitled to compensation at their respective rates of pay on the basis of time and one-half time for an equal amount of time to that required by the Signal Maintainer and Signal Helper from Cloverport, Kentucky, to perform the work of clearing signal trouble at Kathryn, Kentucky, October 18, 1958. [Carrier's File: G-304-18, G-304, G-357.]

EMPLOYEES' STATEMENT OF FACTS: On October 18, 1958, Mr. J. A. Tanner was the assigned Signal Maintainer on the Irvington, Kentucky, signal maintenance territory, and Mr. H. D. Basham was the assigned Signal Helper on the same territory. On the same date of October 18, 1958, signal trouble developed on the territory assigned to Signal Maintainer Tanner and Signal Helper Basham (signal at south end of Kathryn, Ky., was reported out of order). The Carrier called and used the Signal Maintainer and Helper from the adjoining Cloverport, Kentucky, signal maintenance territory to clear the trouble on the Irvington, Kentucky, signal maintenance territory in place of calling and using the regular assignees, Signal Maintainer Tanner and Signal Helper Basham.

Inasmuch as Signal Maintainer Tanner and Signal Helper Basham were not registered absent and were not called to perform the work on their assigned territory, a time slip in their behalf was submitted to Mr. E. S. Williams, Signal Supervisor, on October 20, 1958, for an amount of time equal to that made by the adjoining Signal Maintainer and Helper in performing the work on the Irvington, Kentucky, signal maintenance territory. The time claim was denied by Signal Supervisor Williams in the following letter to Signal Maintainer Tanner, dated October 29, 1958:

"It is agreed that signal maintainers when called outside regular working hours to clear signal trouble or do other emergency work will use their regularly assigned helpers or assistants in the event that their help is needed.

In the event the regularly assigned helper or assistant cannot be located with reasonable promptness, any other available signal employe may be used, paying him such rate as it established by Rule 25 of the Agreement of February 16, 1949, revised to October 1, 1950.

If no signal employe is available, it will be permissible to use a track man or laborer from some other department. He will work as directed by the maintainer and will be paid at the rate which would apply to the regularly assigned helper or assistant maintainer for whom he substitutes. He will not acquire seniority under the signalmen's agreement for such emergency service. It will be left to the maintainer as to whether he needs assistance."

It will be noted that Rule 18(a) provides that employes assigned to or filling maintenance positions will notify the management where they may ordinarily be called.

It had been the practice in the past to call Claimant Tanner by commercial telephone located in his home.

As a general rule, it also has been the practice, under the agreed-to understanding dated January 3, 1949, *supra*, to call the maintainer and let the maintainer decide as to whether he needed assistance, the maintainer, in turn, calling his helper if he considered he needed the assistance of his helper.

The statement of the chief dispatcher, *supra*, shows that an effort was made at three different times during a period of 1 hour, 15 minutes to call Maintainer Tanner for the trouble at Kathryn, but without success, after which the Chief Dispatcher considered they could not afford to lose any more time in getting the trouble corrected, for which reason he instructed Maintainer Brumfield of the adjoining territory, who was already out on call and readily available, to look after the trouble at Kathryn.

The facts show there is no basis for the employes' contention that carrier failed to call claimants — three attempts within a spread of 1 hour, 15 minutes were made to call Maintainer Tanner in the usual manner, but without success.

In the circumstances there is no basis for the employes' contention that Rule 18(a) was violated, for which reason the claim should be denied.

OPINION OF BOARD: The Claimants were assigned as Signal Maintainer and Helper, respectively, with headquarters at Irvington, Kentucky. On Saturday, October 18, 1958, an assigned rest day for the Claimants, signal trouble developed on their assigned territory. The Carrier alleges, as it did on the property, that three attempts were made to call Maintainer Tanner by commercial telephone located in his home, but received no response, and the Maintainer from the adjoining territory was then called to correct the signal trouble.

The Petitioner contends that the Carrier violated Rule 18(a) of the Agreement when the Maintainer from the adjoining territory was called to clear signal trouble on Claimant's territory.

The same issue between the same parties, and involving the same rule, has recently been decided by Awards 11994 and 11995 in which the claims of the employees were denied. The record in this case does not contain any proof by the Petitioner that the Carrier did not make a reasonable effort to call the Claimant Maintainer prior to calling the Maintainer from the adjoining territory. The claim will 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 19th day of June 1964.