

Award No. 12951
Docket No. SG-12823

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Benjamin H. Wolf, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

ILLINOIS CENTRAL RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Illinois Central Railroad Company:

In behalf of Signal Gang Foreman F. E. Carroll, Signalmen T. J. Duggan and J. S. Seelbach, and Assistant Signalmen R. W. Hunsley and C. F. Uchtman, for twenty-four (24) hours each at their respective rates of pay account of Testman R. H. Harris, Signal Maintainer W. C. Smith and a Track Laborer performing work of replacing a damaged signal case at a road crossing at Minonk, Illinois on January 25, 26 and 27, 1960.

[Carrier's File No. 135-214-67-Spl., Case No. 122 Sig.]

EMPLOYES' STATEMENT OF FACTS: On January 25, 26 and 27, 1960, the Carrier assigned and permitted Signal Testman R. H. Harris, Signal Maintainer W. C. Smith, and a track department employe to perform all necessary construction work in connection with replacing a signal relay case at a highway crossing in Minonk, Illinois, which had been damaged by a truck using the crossing.

In view of the fact that the Carrier required Signal Testman Harris and Signal Maintainer Smith to perform duties which did not accrue to their respective classifications, in addition to the fact that the Carrier permitted a track department employe to assist with the signal work, a claim was filed by Local Chairman S. C. Arnold with Mr. F. T. Kraft, Division Engineer, under date of March 22, 1961, as follows:

"The Local Committee has been directed to present their claim in behalf of the following Signal Gang employes. Eight hours straight time rate on Jan. 25, 26, and 27, 1960.

F. E. Carrol	24 hrs.	Foreman's rate.
T. J. Duggan	24 hrs.	Signalmen's rate.
J. S. Seelbach	24 hrs.	Signalmen's rate.

In Award 9609 your Board held:

" . . . Mere assertions cannot take the place of proof."

In its handling on the property, the Brotherhood has presented nothing in proof to support their assertion of an agreement violation.

Carrier submits that this claim is without merit and should be denied.

(Exhibits not reproduced.)

OPINION OF BOARD: The facts here are the same as those in Award 12949 except that a passing maintenance of way track patrolman "voluntarily" helped. Carrier offered to allow a call to dispose of the alleged violation. This offer was not accepted. An unaccepted compromise offer should not be deemed an admission against interest by the offering party.

Carrier neither instructed, required nor expected the patrolman to help the signalmen with their work. We have previously held that, absent direction and authority, voluntary service cannot be asserted to support a claim. (Award 7793.) The claim must be dismissed on the authority of Award 12949.

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 Employee involved in this dispute are respectively Carrier and Employee 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 Carrier did not violate the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 9th day of October 1964.