

Award No. 13144
Docket No. SG-13211

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

John J. McGovern, 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 Rule 70.

(b) Mr. E. M. Davis, Mr. T. J. Ritchie, and Mr. C. M. Johnson be paid five (5) hours at their respective overtime rate of pay for February 13, 1961, from 2:30 A. M. to 7:30 A. M. for a total as follows: Mr. E. M. Davis, \$19.695; Mr. T. J. Ritchie, \$19.695; Mr. C. M. Johnson, \$20.175. [Carrier's File: SIG 152-88]

EMPLOYEES' STATEMENT OF FACTS: This dispute is a result of the Carrier's action of assigning track forces instead of signal forces to flag a highway grade crossing during the time automatic crossing protection devices that had been installed and maintained by signal forces were out of order and being repaired. The basic issue is whether or not signal forces have a contractual right to provide flag protection at a highway crossing after they had installed highway crossing protection devices and during such periods of time such devices are temporarily out of service or are being repaired by signal forces. The same issue is involved in this Division's Docket SG-12719.

It was our opinion that in order to avoid further burdening this tribunal, the instant claim should have been held in abeyance and disposed of on the same basis this Board eventually disposes of SG-12719, but the Carrier would not agree to the General Chairman's suggestion in this respect.

Our records indicate the Carrier is continuing to use track forces to flag at crossings while automatic signals are being repaired, so we assume that it will be necessary for us to continue to progress all claims of this nature to your Board, unless the Carrier will agree to hold similar cases in abeyance and agree to dispose of them consistent with the decision of the Board in other cases.

a type performed by others in the past, is work which in the discretion of the Carrier, may be awarded to either class. The discretion to be exercised in the public interest."

CONCLUSION

Carrier requests that the claim be denied.

(Exhibits not reproduced.)

OPINION OF BOARD: We find that this claim involves the same parties and question as that involved in Award 13143. Following our decision in that case, this claim will be denied.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

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 11th day of December 1964.