

Award No. 15151
Docket No. SG-14634

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Levi M. Hall, 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 Rules 13 and 70, or other provisions of the agreement, by not allowing the senior men in a class the preference of working overtime in their seniority order on October 14, 1962, in the repair of the signal system damaged by high winds.

(b) Mr. H. T. Beiser, Lead Signalman, Signal Gang No. 1, be allowed fourteen (14) hours at his overtime rate of pay as Lead Signalman for October 14 and 15, 1962. [Carrier's File: SIG 148-95]

EMPLOYES' STATEMENT OF FACTS: At the time this dispute arose, Claimant Beiser was the incumbent of a Leading Signalman position on Signal Gang No. 1, with headquarters in trailer houses at Brooklyn Yard, near Portland, Oregon. Listed below, in seniority order, are the men assigned to the gang at that time:

S. W. Sargent	Signal Foreman
H. T. Beiser	Leading Signalman
C. Kelly	Signalman
K. L. Knutson	Signalman
E. E. Erb	Signalman
H. D. Hanson	Signalman

Due to damage caused by a severe wind storm, the Carrier considered it necessary to call employees of Signal Gang No. 1 for overtime service on Sunday, October 14, 1962, and those called worked from noon until 2:00 A. M. the next day, a total of fourteen (14) hours.

One highway identified as 99 is a freeway running directly past Donald, Signalman Erb's residence approximately 25 miles from Brooklyn. The other highway identified as 99 E runs through Canby, claimant's residence, approximately 20 miles from Brooklyn. Brooklyn is a district within the city limits of Portland.

4. Correspondence which passed between the Local Chairman and Carrier's division officers in connection with this claim is reproduced as Carrier's Exhibit B; and correspondence passing between the General Chairman and Carrier's Assistant Manager of Personnel is reproduced as Carrier's Exhibit C.

(Exhibits not reproduced.)

OPINION OF BOARD: This Claim is based on Carrier's alleged failure to call and assign Claimant, a **Leading Signalman** for overtime service in the repair of the Signal system on account of wind damage, it being Claimant's contention that he had been previously assigned to Signal Gang No. 1 and that all of **Signalmen** who were used on this work were junior to him on Gang No. 1.

Carrier at the panel discussion raised the issue as to whether the word "class" as it appears in the last paragraph in Rule 13 of the Agreement, upon which Claimant relies, refers to a "class" as defined in Article I of the Agreement.

Petitioner objects to a consideration of this question, as it was not raised by either party on the property. While this argument was first presented at the panel discussion, it involves the interpretation of a rule of the Agreement upon which Claimant relies, not a question of fact and Carrier may properly raise it. See Award 10494 — Dugan.

The last paragraph of Rule 13 which is pertinent to this Opinion reads, as follows:

"Where gang men are required to work overtime, the senior man in a class in the gang shall be given preference to such overtime work."

Claimant has been described in the record as a **Leading Signalman**. Under Article I, Rule 4 of the agreement, we note the following:

"LEADING SIGNALMAN — LEADING SIGNAL MAINTAINER. A Signalman or signal maintainer working with and supervising the work of one or more signalmen or signal maintainers with or without their assistants and/or helpers."

And, under Rule 5 we find:

"SIGNALMAN — SIGNAL MAINTAINER. An employe assigned to perform work generally recognized as signal work, as outlined in the Scope of this agreement."

Thus we find that the Claimant who was a **Leading Signalman** is in the **Leading Signalman's class** and not in the **Signalman's class**. There was no obligation on Carrier's part under the Agreement to have called him as he was in a different class.

See Award 12134 — Sempliner where the foregoing interpretation was made. Award 12134 has been followed on this property in Award 12936 — Yagoda and Award 13262 — Moore, and as the conclusions reached in these awards were not palpably erroneous we are obligated to follow them.

Having reached this conclusion, we find it unnecessary to comment on other questions presented in the record.

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 19th day of January 1967.