

Award No. 15543

Docket No. SG-15459

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

John H. Dorsey, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

CENTRAL OF GEORGIA RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Central of Georgia Railway Company that:

(a) Carrier violated the current Signalmen's Agreement, as amended, particularly Rule 18(b), when Relay Repairman and Relief Signal Maintainer C. G. Garlington, a monthly-rated employee headquartered at Macon, Georgia, was required to answer a call for crossing signal trouble at Oconee, Georgia, on November 13, 1963, after his assigned working hours, and worked from 4:30 P.M. to 9:30 P.M. on the territory of another signal maintainer who was on duty or available for call, and the overtime worked by Mr. Garlington was withheld from his pay.

(b) Carrier be required to pay Mr. C. G. Garlington at his overtime rate of pay for five (5) hours on November 13, 1963 (4:30 P.M. to 9:30 P.M.) when he was required to perform extra service not a part of his assignment, for which he has not been paid.

[Carrier's File: SIG 479]

EMPLOYEES' STATEMENT OF FACTS: On November 13, 1963, until 4:00 P.M., Claimant C. G. Garlington was assigned and performed the duties of Relay Repairman-Relief Mtr. headquartered at Macon, Georgia. He worked this, his regularly assigned job, for seven and one-half (7½) hours, and then was required to perform work accruing to a Traveling Signal Maintainer. He had to locate and clear a case of trouble on crossing signals at Oconee, Georgia. The classification rules do not require that he perform this kind of work.

Traveling Signal Maintainer T. J. Garrett, whose assignment includes the maintenance and repair of the crossing signals at Oconee, was not used to make the repairs, even though he is responsible and compensated for doing this particular work. He was working behind the Sperry Rail Detection Car elsewhere on his territory, and Relay Repairman was sent by Carrier to Oconee in his place.

The record shows that the Brotherhood has failed in all handlings on the property to cite any rule which supports their baseless claim. The Brotherhood relies upon Rule 18(b) of the Agreement, which clearly refers to hourly rated employees shown in Rule 49(b) — not to monthly rated employees such as claimant, whose salary covers all services performed, as is spelled out in Rule 49(a) of the Agreement. The Brotherhood has not and cannot cite any rule, interpretation or practice to support their baseless claim. Not knowing of any rule, interpretation or practice that has been violated in any manner whatsoever, the Carrier has denied this meritless claim at each and every stage of handling on the property. It is a fact that this claim has no semblance of merit.

The rules and working conditions agreement between the parties is effective July 1, 1950, as amended. Copies are on file with the Board, and the agreement, as amended, is hereby made a part of this dispute as though reproduced herein word for word.

OPINION OF BOARD: On Wednesday, November 13, 1963, Claimant Garlington was regularly assigned to a position of Relay Repairman and Relief Maintainer, with headquarters at Macon, Georgia. His assigned work week began on Monday, and his monthly pay was governed by Rule 49 (a) of the controlling agreement.

On the date in question trouble occurred in a highway crossing protective device (crossing signal) at Oconee, Georgia; Claimant was directed to investigate and correct this trouble and he was thus engaged from 4:00 P. M. until 9:30 P. M. (5 hours beyond the end of his regular working hours). The Petitioner contends—and Carrier does not deny—that maintenance work involving the subject crossing signal was part of the regular assignment of Traveling Signal Maintainer Gassett.

It is the position of the Petitioner that the Claimant was required to perform 5 hours' overtime work which was not on his regular assignment and, therefore, that overtime rates apply. The Petitioner's position is based on the fact that the Claimant's normal work day ended at 4:30 P. M. and he was required to work until 9:30 P. M.

The issue is whether the following provision of Rule 49 (a), particularly the sentence printed in dark type, supports Petitioner's position:

"Except for service on rest days, the above salaries cover all services performed. These employees shall have one regularly assigned rest day each week, which shall be Sunday. When service is required on the assigned rest day, it shall be paid for, in addition to the monthly rate, at the overtime rate in accordance with rules of the agreement applying to hourly rated employees. **No overtime will be worked, and no work will be required on the sixth day of the work week or on holidays by these classes of employees unless in case of emergency on their regular assignments; if worked on such days not in emergency on their regular assignment, overtime rate shall apply as above.**" (Emphasis ours.)

Petitioner argues that: (1) for applicability to the facts in this case the sentence printed in dark type must be read:

"No overtime will be worked . . . by these classes of employees unless in case of emergency on their regular assignments; if worked . . . not in emergency on their regular assignment, overtime rate shall apply as above."

(2) the "above" refers to the overtime rate prescribed in the third sentence of the provision; (3) since the work performed was not part of Claimant's regular assignment the overtime rate applied.

Carrier contends that: (1) the emphasized sentence of the provision is an exception to the general statement in the first sentence of the provision; (2) the exception pertains only to "the sixth day of the work week or on holidays . . . if worked on such days not in emergency"; (3) past practice on the property has been in accord with (1) and (2); and (4) since the work involved was not performed on the sixth day of the work week or on a holiday the exception is inapposite.

As we interpret Rule 49 (a): (1) if an employee is called out on Saturday (the sixth day of his work week) or a holiday for an emergency on his regular assignment during his bulletined hours, this is within his comprehended hours for which Carrier is not required to pay overtime; (2) if called out for any cause on the sixth day of his work week or a holiday outside of his bulletined hours he is entitled to compensation over and above his monthly rate as per the Rules of the Agreement.

The words "if worked on such days" immediately following the semicolon in the emphasized sentence relate to the sixth day of the work week and holidays and thus makes clear that the overtime rate applies only to those days. We will deny the Claim.

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 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 5th day of May 1967.

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