

**NATIONAL RAILROAD ADJUSTMENT BOARD****THIRD DIVISION**

George S. Ives, Referee

**PARTIES TO DISPUTE:****BROTHERHOOD OF RAILROAD SIGNALMEN****TERMINAL RAILROAD ASSOCIATION OF ST. LOUIS**

**STATEMENT OF CLAIM:** Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Terminal Railroad Association of St. Louis that:

(a) Carrier violated the current Signalmen's Agreement, as amended, particularly Sections 2 and 5 (b) of Article I, and the Memorandum of Agreement dated August 12, 1963 (013-311-17) when Signal Testman F. J. Wiechert was required for four (4) hours on November 29, 1963, and eight (8) hours each day on the dates of November 22, 25, 26 and December 2, 3, 4, 5 and 6, 1963, to perform Signal Construction Foreman work of directing men in the running of new wires for circuit changes and Signalman's work of running new wires, making new tags, and effecting wire changes in relays in connection with certain changes made on those dates involving Signal No. 38 at Q Tower, East St. Louis, Illinois.

(b) H. L. Satterfield, Vacation Relief Signalman, Gang No. 4, be paid an amount of time equal to that cited in paragraph (a) above, or sixty-eight (68) hours at the time and one-half Signal Testman's rate account the regular position of Signal Testman Wiechert was blanked.

(c) R. C. Miller, top rated Assistant Signalman, be paid an amount of time equal to that cited in paragraph (a) above, or sixty-eight (68) hours at the time and one-half Signalman's rate account Signal Testman Wiechert performing Signalman's work. [Carrier's File: 013-311-17]

**EMPLOYES' STATEMENT OF FACTS:** This dispute involves the application of the Classification Rules of the Signalmen's Agreement and the assignment of signal work by Carrier to employees classified thereunder. It also involves the application of the August 12, 1963 Memorandum of Agreement (013-311-17) which provides, among other things, that Signal Testman vacancies, when they occur, will be filled by Vacation Relief Men.

On several days in November and December in 1963, Signal Supervisor Mr. A. G. Harlan assigned and/or otherwise required Signal Testman Mr. F. J. Wiechert to work in Signal Construction Gang No. 4, effecting certain changes to Signal No. 38 at Q Tower, East St. Louis, Illinois.

as revised by Memorandum of Agreement dated May 28, 1959. Copies of both Agreements are on file with this Division of the National Railroad Adjustment Board.

**OPINION OF BOARD:** Petitioner contends that a Signal Testman, assigned to work with Construction Gang No. 4, performed work reserved to the Signal Construction Foreman and Signalmen in said Signal Construction Gang on the Claim dates in violation of the Agreement between the parties and a Memorandum of Agreement, dated August 12, 1963. Petitioner asserts that the position of Signal Testman was "blanked" on the claim dates when the regular incumbent was allegedly used to perform the work of the Construction Foreman and Signalmen in Construction Gang No. 4.

Carrier's payroll records show that the regular incumbent of the Signal Testman position was on duty on the dates of claim, and that the Foreman of Construction Gang No. 4 was also functioning in his regular capacity on such dates. Furthermore, Carrier emphatically denies that the Signal Testman performed signal work which was other than incidental to his duties as testman assigned to work with the Signal Construction Gang.

Petitioner has offered no probative evidence in support of the instant Claim.

It is well established that the burden of proof rests with the party making the Claim. Petitioner has offered no probative evidence in support of the instant Claim. Accordingly, the Claim must be dismissed as Petitioner has failed to establish a prima facie case.

**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 dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of THIRD DIVISION

ATTEST: S. H. Schulty  
Executive Secretary

Dated at Chicago, Illinois, this 26th day of May 1967.

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