

Award No. 15671
Docket No. SG-15209

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Thomas J. Kenan, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

CHICAGO, ROCK ISLAND & PACIFIC RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Chicago, Rock Island and Pacific Railroad Company that:

(a) The Carrier violated the current Signalmen's Agreement, as amended, particularly Rules 5, 14 and 15, on January 23, 1963, when it required Signal Maintainer John J. Daily to find and correct signal trouble on an adjoining signal maintenance territory during his regular working hours.

(b) The Carrier be required to compensate Mr. Daily for four (4) hours at the punitive rate of pay.

EMPLOYEES' STATEMENT OF FACTS: Claimant John J. Daily is a regularly assigned signal maintainer. On January 23, 1963, he was required to suspend work on his own territory during regular working hours and perform work on an adjoining signal maintenance territory. The work consisted of repairing a broken line wire. The weather was clear and cold.

Claimant worked on the adjoining territory from 11 A. M. until 4 P. M., and submitted a claim for four hours' overtime pay.

Under date of February 5, 1963, Carrier's Assistant Communications and Signal Supervisor, Mr. F. T. Scharf, wrote a letter of denial (Brotherhood's Exhibit No. 1), to Mr. Daily. Then, on February 12th, the Supervisor wrote a letter of denial (Brotherhood's Exhibit No. 2).

On February 28, 1963, the General Chairman wrote a letter (Brotherhood's Exhibit No. 3) to the Signal Engineer, pointing out that the December 14, 1961 Memorandum of Agreement does not give the Carrier any right to use a signal maintainer to absorb overtime when a maintainer is on vacation, and requested that Supervisor Fort be advised to rescind his interpretation, which is not a correct interpretation for that Memorandum of Agreement.

On March 23, 1963, the Brotherhood's Local Chairman presented the matter to Supervisor Fort, requesting that Mr. Daily be allowed punitive over-

time as previously claimed. The Local Chairman's letter is Brotherhood's Exhibit No. 4. Subsequent exchange of pertinent correspondence is attached hereto as Brotherhood's Exhibit Nos. 5, 6, 7, 8, 9 and 10. As shown thereby, this dispute was handled in the usual and proper manner on the property, up to and including the highest officer of the Carrier designated to handle such disputes, without receiving a satisfactory settlement. As indicated by Brotherhood's Exhibit No. 10, the case was discussed in conference and the time limits extended.

There is an agreement in effect between the parties to this dispute, bearing an effective date of July 1, 1952, as amended, which is by reference made a part of the record in this dispute.

(Exhibits not reproduced.)

CARRIER'S STATEMENT OF FACTS:

(1) There is an Agreement in effect between the Chicago, Rock Island and Pacific Railroad Company and its Employees represented by the Brotherhood of Railroad Signalmen bearing an effective date of July 1, 1952 which by reference is made a part of this submission.

(2) On December 14, 1961, Carrier entered into a Memorandum of Agreement with the Employees, governing the use of Signal Maintainers off their assigned territories (Carrier's Exhibit A).

(3) On the Polo, Missouri signal maintenance territory, the regular signal maintainer was on his annual vacation from January 7 to January 25, 1963. During this period his position was filled by a regular vacation relief signal maintainer.

(4) On January 23, 1963, J. J. Daily (claimant) whose assigned maintenance territory is adjacent to the Polo territory, was used to assist the vacation relief signal maintainer locate and repair signal trouble which caused an emergency on the Polo territory. Claimant worked from 11:00 A. M. to 4:00 P. M. on the Polo territory for which he was paid at the straight-time rate. Claim was filed for 4 hours at overtime rate (5 hours, less 1 hour lunch) in addition to straight-time payment already made.

OPINION OF BOARD: On January 23, 1963, the Carrier required Signal Maintainer John J. Daily, during his regular working hours, to repair signal trouble in an adjoining signal maintenance territory. The regular signal maintainer in such territory was on vacation, no vacation relief having been provided to fill his position.

The Employees claim violations of Rules 5, 14 and 15 of the Agreement. The Carrier defends its action on the grounds that it was authorized either by the Memorandum of Agreement between the parties dated December 14, 1961, or by Articles 6 and 10(b) of the National Vacation Agreement of December 17, 1941, as amended.

The Board finds that Article 10(b) of the Vacation Agreement controls this factual situation. Article 10 (b) contemplates that up to 25 per cent of a vacationing employee's work can be distributed among fellow employees without the hiring of a relief worker, provided this does not burden such fellow employees and thereby violate Article 6.

The Board further finds that the Employees have failed to prove that the work performed by Claimant Daily on January 23, 1963, was either in excess of 25 per cent of the work load of the vacationing employe or was a burden upon Daily.

Nothing in the Agreement, including its Rules 5, 14 and 15, prohibits the Carrier from assigning a signal maintainer to work outside his assigned territory. Any ambiguities in this respect are dispelled by the parties' Memorandum of Agreement dated December 14, 1961. Such memorandum not only governs when such assignments do and do not result in additional one-half time pay; it also specifically endorses Articles 6 and 10 of the National Vacation Agreement.

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 claim is not sustained by the facts and evidence.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 23rd day of June 1967.