



Award No. 17183

Docket No. SG-17715

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Paul C. Dugan, 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 (former Pacific Electric Railway Company) that:

- (a) The Southern Pacific Company violated the current agreement between the Pacific Electric Railway Company and its employees represented by the Brotherhood of Railroad Signalmen, effective September 1, 1949 (including revisions to May 16, 1951) when it failed and/or declined to apply a letter of understanding, dated April 6, 1964, addressed to the undersigned and signed by Manager of Personnel L. R. McIntire, which provides for the assignment of overtime work to the available employees.
- (b) Mr. J. J. Baumann, Leading Signalman, be allowed nine (9) hours at the time and one-half rate of his assignment, for February 4, 1967.

[Carrier's File: SIG 148-145]

EMPLOYEES' STATEMENT OF FACTS: Claimant J. J. Baumann is regularly assigned to a position of Leading Signalman with headquarters at Macy Street Yard in Los Angeles, California. He has seniority in the pay class with a date of October 1, 1957.

At 1:00 A.M. on Saturday, February 4, 1967, an employee working as Leading Signalman, with seniority in the pay class since only November 16, 1962, was called to work in connection with the replacement of a wig-wag crossing signal at Santa Barbara Avenue on the Wilmington Branch Line in Los Angeles. He worked from 1:00 A.M. until 10:00 A.M. and was paid nine (9) hours at the time and one-half rate for his services.

There is a letter of understanding dated April 6, 1964, which among other things provides that overtime is to be offered to employees on the basis of their seniority in the pay class. The letter is Brotherhood's Exhibit No. 1 and is controlling in this dispute.

At the time calls were being made to the junior Leading Signalman and others, Mr. Baumann was at home with his family; he was available for call and should have been offered the opportunity to work.

mann's home is attached hereto, to establish the availability of Mr. Baumann." This correspondence, together with its attachment, is reproduced and attached hereto as Carrier's Exhibit "F."

Carrier's Assistant Manager of Personnel acknowledged the appeal on March 17, 1967; and on March 31, 1967, advised "This case will be discussed in conference at the first available opportunity." On April 20, 1967, Carrier confirmed conference discussion and advised in part as follows:

"As discussed in conference, our file contains signed statement of F. R. Edmonson, Assistant Signal Supervisor, dated February 28, 1967, attesting to the fact that attempt was in fact made to call Claimant Baumann; copy of Mr. Edmonson's statement is attached.

"Inasmuch as a bona fide attempt was made by the Carrier to call Mr. Baumann in this instance, there is no basis for claim for penalty payment in his behalf, and the claim presented is denied."

The claim presented was denied. Copy of this correspondence is attached as Carrier's Exhibit "G" (the attachment referred to therein has been previously referred to herein and is included as Carrier's Exhibit "A" hereof).

On May 17, 1967, Petitioner's General Chairman, referring to Carrier's denial of April 20, 1967, wrote to Carrier's Assistant Manager of Personnel, taking exception to the supported fact that claimant had been called for the service in question. This correspondence is reproduced and attached as Carrier's Exhibit "H."

(Exhibits not reproduced)

OPINION OF BOARD: On February 3, 1967, at approximately 11:55 P.M. Carrier suffered damage to one of its signals, and Carrier ordered a five man working force consisting of a Lead Signaller and four Signallermen to perform the repair work. This claim arose because of Carrier's alleged failure to call Claimant for said repair work.

Carrier's Assistant Signal Supervisor, Frank R. Edmonson, stated that he spent one and one-half hours calling on the phone to secure said five men and that a number of the men did not answer their phones or their wives stated that they were not at home. Assistant Signal Supervisor Edmonson further stated that the first man he called was the Claimant herein.

Claimant submitted a statement from three adults residing in his home stating that phone in Claimant's home did not ring between the hours of twelve midnight and 8:00 A.M. on February 4, 1967.

In this dispute we have a conflict of evidence in regard to whether or not Carrier called Claimant to help repair the damaged equipment.

Inasmuch as Carrier's Signal supervisor stated he spent one and one-half hours calling men to perform said repair work, we feel that another phone call to the Claimant herein was warranted under the circumstances. In reaching this conclusion we are not saying that Carrier has to unreasonably make repeated efforts to contact an employee before calling junior employees for the work. However, another phone call to this Claimant in this instance, during this one and one-half hour period that phone calls were being made

to secure the five man force is not an unreasonable, oppressive or burdensome task for Carrier to have attempted in this instance, and therefore we must sustain this claim.

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 violated.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 28th day of May 1969.