Award No. 17717
Docket No. SG-18146

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Gene T. Ritter, 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:

(a) The Southern Pacific Company violated the agreement between the Southern Pacific Company (Pacific Lines) and the employes of the Signal Department represented by the Brotherhood of Railroad Signalmen (effective April 1, 1947, reprinted April 1, 1958 including revisions), and particularly Rule 16 which resulted in violation of Rule 70.

(b) Mr. V. M. Osman, signalman Signal Gang #2, Tulare, California, Southern Pacific Company, who during the first week of October, 1967 was directed to relieve the Exeter maintenance district, be compensated for 4 hours at the time and one-half rate, account Signalman B. Putnam, an employe not held subject to call, under the provisions of Rule 16 of current Signalmen's Agreement was assigned to 4 hours overtime work paid for at the time and one-half rate on the district which Mr. Osman was assigned to relieve.

EMPLOYES' STATEMENT OF FACTS: Claimant V. M. Osmun is a regularly assigned Signalman on Signal Gang #2, Tulare, California. During the first week of October, 1967, Carrier assigned him to relieve the Signal Maintainer position at Exeter. During that week, on October 4, Carrier used Signalman B. Putman, an employee not held subject to call under Rule 16 of the Signalmen's Agreement, to perform four hours overtime work on the Exeter maintenance district.

Under date of November 17, 1967, the Brotherhood's Local Chairman filed a claim on behalf of Mr. Osmun for four hours pay at the time and one-half rate. As indicated by correspondence attached hereto as Brotherhood's Exhibit Nos. 1 through 7, that claim 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 satisfactory settlement.

The basis of the claim is that Carrier failed to call Claimant in violation of Rule 16, resulting in a loss of earnings for which he should be reimbursed in accordance with Rule 70.

There is an agreement in effect between the parties to this dispute, bearing an effective date of April 1, 1947 (reprinted April 1, 1958 in-

conversation with former Assistant Signal Supervisor, admitted that he would not have been qualified to actually perform the necessary work. It is also our understanding that Signalman Putman, who actually performed the work involved, had been previously engaged in such work during hours on the date involved, and that in performing this overtime he was merely continuing on with work in which he was already engaged."

In addition to the foregoing, by letter dated February 19, 1968 (Carrier's Exhibit "F"), Carrier's Assistant Manager of Personnel forwarded copy of statement dated January 31, 1968, signed by Carrier's Assistant Signal Supervisor in connection with the circumstances involved in this dispute.

By letter dated March 7, 1968 (Carrier's Exhibit "G"), Petitioner's General Chairman reviewed matters discussed in conference held on January 30, 1968, regarding this claim.

(Exhibits not reproduced)

OPINION OF BOARD: Claimant occupied position of Signalmen-Relief Signal Maintainer at Tulare on Carrier's Joaquin Division. This position was assigned to work as signalman on Signal Gang No. 2 unless required to relieve other positions. During the first week of October, 1967, Claimant was assigned to relieve a vacationing Signal Maintainer on the Exeter Branch. During this time (first week in October), trouble developed in the operation of the electronic track circuit and Signalman B. E. Putman with assigned duties of repairing and maintaining such equipment, was assigned to correct the trouble. Putman was unable to correct the trouble by 4:00 P.M. (the end of his regularly assigned daily shift) and he continued to work an additional four hours at the overtime rate. The Organization contends that Rule 16 was violated by Carrier when it used compensated in accordance with Rule 70. Said rules are:

"RULE 16. SUBJECT TO CALL. Employes assigned to regular maintenance duties recognize the possibility of emergencies in the operation of the railroad, and shall notify the person designated by the Management where they may be called and shall respond promptly when called. When such employes desire to leave their headquarters for a period of time in excess of three (3) hours, they shall notify the person designated by the Management that they will be away, about when they shall return, and when possible, where they may be found. Unless registered absent, regular assigned employes shall be called."

"RULE 70. LOSS OF EARNINGS. An employe covered by this agreement who suffers loss of earnings because of violation or misapplication of any portion of this agreement shall be reimbursed for such loss."

Carrier contends that the Organization has presented no probative evidence establishing Claimant's right to the overtime claimed herein for overtime accrued. Carrier further contends that Claimant was not qualified to perform the involved work.

This Board finds that Award No. 34 of Public Law Board No. 15 is controlling in this dispute, and, therefore, this claim will be denied.

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 Employes involved in this dispute are respectively Carrier and Employes within the meaning of the Railroad 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 denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 13th day of February 1970.

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