



Award Number 17748

Docket Number SG-18261

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

David Dolnick, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

LEHIGH VALLEY RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Lehigh Valley Railroad Company, that:

- (a) Carrier violated the current Signalmen's Agreement, as amended, particularly Article II, Section 10(k), when at 4:15 P.M. on September 26, 1967, the switches failed to operate at Catasauquah and Cementon Plants—on the territory regularly assigned to Signal Maintainer H. Markow with headquarters at Slatington, Pennsylvania—and the Signal Maintainer with headquarters at Union Street Tower in Allentown, Pennsylvania, was called to investigate the failures and had to hand operate the switches for trains.
- (b) Carrier be required now to pay Signal Maintainer H. Markow fifteen and one-half (15 1/2) hours at the rate of time and one-half.

EMPLOYEES' STATEMENT OF FACTS: This dispute resulted when on September 26, 1967, the Carrier failed to call regularly assigned Signal Maintainer H. Markow with headquarters at Slatington, Pa., on his assigned territory and instead called and used regularly assigned Signal Maintainer A. Benkovic from the adjoining territory, with headquarters at Allentown, Pa.

On October 4, 1967, the Brotherhood's Local Chairman filed a claim on behalf of Signal Maintainer H. Markow for 15 1/2 hours at the overtime rate which was the amount of overtime he was deprived of earning as a result of the Carrier improperly calling and using the adjoining Signal Maintainer. (Brotherhood's Exhibit No. 1).

The dispute was handled on the property in the usual and proper manner, up to and including the highest officer of the Carrier designated to handle such disputes, without obtaining a satisfactory settlement.

There is an agreement in effect between the parties herein, bearing an effective date of July 1, 1942, revised September 1, 1949, as amended, which is by reference made a part of the record in this dispute.

(Exhibits Not Reproduced)

CARRIER'S STATEMENT OF FACTS: There is in effect between the Brotherhood of Railroad Signalmen and this Carrier an agreement dated

five hours at straight time to the claimant only because of the unusual circumstances involved in the case. The Employees could not accept the offer and agreed the claim would be respectfully denied.

(Exhibits Not Reproduced)

OPINION OF BOARD: Claimant is the assigned Signal Maintainer in the territory from M.P. 119.3 to M.P. 95.0 with assigned hours 7:30 A.M. to 4:00 P.M., Monday thru Friday. Sometime after 4:00 P.M. on Tuesday, September 26, 1967 the remote controlled switches at two interlocking plants within the territory assigned to Claimant failed to operate. In order to permit trains to proceed a Signal Maintainer from the immediate adjacent territory who was already on duty, having been called because of trouble being experienced on the territory assigned to him, was instructed to proceed to the remote controlled interlockings in Claimant's territory to crank switches by hand. The Maintainer from the adjacent territory consumed five hours in the performance of service in Claimant's assigned territory.

Carrier asserts that an emergency existed but the record is lacking in evidence sufficient to support such assertion.

The record does show that Carrier made no attempt whatever to call Claimant and assumed he was not available because of being enroute to his home 20 miles distance following completion of his assigned duty tour. Since Carrier made no effort to call Claimant we will sustain the claim to the extent of five hours since this is the amount of time that the Maintainer from the adjacent territory spent in performing service in Claimant's assigned territory. Payment is to be at the time and one-half rate since this is the rate that Claimant would have received had he performed the service.

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 for five hours at the time and one-half rate as indicated in the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 25th day of February 1970.