

Award Number 17940

Docket Number SG-182720

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John J. McGovern, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

**CHICAGO, BURLINGTON AND QUINCY RAILROAD
COMPANY**

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Chicago, Burlington and Quincy Railroad Company that:

- (a) Carrier violated the current Signalmen's Agreement, as amended, particularly Rule 13, when from November 13, 1967, to and including December 4, 1967, it required Rushville, Missouri Signal Maintainer D. L. Adkison to suspend work on his regularly assigned position and fill a position of General CTC Maintainer with headquarters at Hannibal, Missouri.
- (b) Carrier be required now to allow Signal Maintainer Adkison eight (8) hours' pay at the punitive rate of the highest rated of the two jobs, for each of the following days:

November 13, 1967	November 20, 1967	November 28, 1967
November 14, 1967	November 21, 1967	November 29, 1967
November 15, 1967	November 27, 1967	November 30, 1967
November 16, 1967	November 22, 1967	December 1, 1967
November 17, 1967	November 24, 1967	December 4, 1967

(Carrier's File: S-91-68)

EMPLOYEES' STATEMENT OF FACTS: On the dates involved in this dispute, Signal Maintainer G. S. Crabill with headquarters at Hannibal, Missouri was absent from his assigned signal maintenance territory.

As shown by Brotherhood's Exhibit No. 5, regularly assigned Signal Maintainer D. L. Adkison with headquarters at Rushville, Missouri was instructed to report to the Hannibal, Missouri territory Monday, November 13, 1967.

This dispute arose because of the Carrier's refusal to properly compensate Mr. Adkison for his services from November 13 to December 4, 1967, the dates on which he was used to perform service on the assigned territory of Signal Maintainer G. S. Crabill.

A proper claim was entered on behalf of Signal Maintainer Adkison for 8 hours time and one-half his respective rate on each work day from November 13 to December 4, 1967, both dates inclusive, based on the Carrier's violation of the Signalmen's Agreement, especially Rule 13, which states as follows:

OPINION OF BOARD: The Signal Maintainer's position at Hannibal, Missouri was vacated by the regularly assigned employee due to illness. Subsequent to this, Claimant and the Hannibal employee, with the approval of Management arranged to exchange jobs under the provisions of Rule 47 of the Agreement, Claimant taking the job at Hannibal, and the other employee taking the job at Rushville.

On the dates specified in the claim, the regular Hannibal employee created a vacancy and Claimant requested the assignment to fill that vacancy. Management granted him this request. Petitioner now brings the present action before us demanding eight (8) hours pay at the punitive rate of pay for each of the dates specified, alleging a violation of the Seniority rules and more specifically Rule 13 of the Agreement. This latter rule reads as follows:

"ABSORBING OVERTIME

"Rule 13. Employees will not be required to suspend work during regular working hours to absorb overtime."

Under the circumstances of this case, wherein Claimant of his own volition requested the new assignment, requested and was granted expenses for the transfer, and later was awarded the position on a permanent basis as well as the fact that the new position demanded a higher rate of pay, it is difficult to see precisely how Rule 13 was violated. Our attention is directed to Award 14974 (Ritter) involving the same factual situation and the identical rule, wherein we held: "Past Awards have firmly established the principle that before the 'suspension of overtime rule (Rule 7(b) herein) can be applied, the Claimant must prove:

"1. That the work in question was suspended during the assigned work period; and

"2. That the work in question was suspended for the purpose of absorbing overtime. (See Awards 14880—Dugan, 14080—Dorsey, 13893—13811 Bailer, 13623—Hutchins.)

"The record in this case is void of any evidence supporting either of these two conditions precedent."

We adopt the reasoning of the above cited award and will accordingly deny the 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 Employee 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.

A W A R D

Claim denied.

**NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division**

**ATTEST: S. H. Schulty
Executive Secretary**

Dated at Chicago, Illinois, this 21st day of May 1970.