

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Francis X. Quinn, 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:

On behalf of Relief Signal Maintainer C. W. Peet for the difference between his rate of pay — \$692.62 per month — and that of Signal Testman — \$719.18 per month — as provided in Rule 25 of the current Signalmen's Agreement as amended, for eight (8) hours each day on February 1, 2, 5, 6, 7, 8, 9, 12, 14 and 15, 1968, four (4) hours for February 13, 1968, and all future dates he is required to do Signal Testman's work. (Carrier's File: L-130-431.)

EMPLOYES' STATEMENT OF FACTS: Since the amendment of the current agreement which added Rule 1, Signal Testmen Classification, certain inspections and tests of signal relays, to meet the requirements of the Interstate Commerce Commission Rules, Standards and Instructions of the Bureau of Safety, I.C.C., have been made by the Signal Testman.

On March 8, 1965, Signal Supervisor R. S. Carle issued instructions and schedule on File R.C.-4 and R.S.-6 showing I.C.C. Rules involved, the frequency of inspections, test recorded and by whom the test should be made, namely, the Signal Testman or Signal Maintainer. (Brotherhood's Exhibit No. 1)

On February 1, 1968, Assistant Signal Supervisor R. L. Jensen instructed Relief Signal Maintainer C. W. Peet, headquartered at U. D. Tower, Joliet, Illinois to make S. D. reports covering I.C.C. tests at U. D. and M. C. Towers, Joliet, Illinois.

Mr. Peet made the test as instructed.

Included in the test made by Claimant were S. D. Test I.C.C. rule 136.379 (route locking), S. D. Test I.C.C. rule 136.378 (time locking), S. D. Test I.C.C. rule 136.381 (traffic locking). (Brotherhood's Exhibit No. 4)

All of the above tests were assigned to the Signal Testman on Signal Supervisor Carle's instruction and schedule, File R.C.-4 and R.S.-6. (Brotherhood's Exhibit No. 1)

4. On February 1, 2, 5, 6, 7, 8, 9, 12, 14 and 15, 1968, Signal Maintainer C. W. Peet tested and inspected relays on his territory in connection with his regular duties. These tests are referred to as SD-4 Reports, a form used by the Carrier for Electric Lock and Relay Test, Record — I.C.C. Rules 105, 106, All Systems Each 2 Years.

5. To avoid burdening the record, Carrier has not included copies of the correspondence presented on the property concerning this claim as it is anticipated the Brotherhood will produce such correspondence as a part of its submission. However, Carrier will refer to various portions of this correspondence as necessary, and will reproduce pertinent portions of same when appropriate. Carrier will also take exception in its rebuttal statement to any errors or omissions in the Brotherhood's reproduction of such correspondence.

6. The procedures followed in the progression of this claim were timely and in accordance with the applicable rules in effect on this property and the Railway Labor Act, as amended.

OPINION OF BOARD: On February 1, 1968, Assistant Signal Supervisor R. L. Jensen instructed Relief Signal Maintainer C. W. Peet, headquartered at U. D. Tower, Joliet, Illinois, to make S.D.-4 Reports covering I.C.C. tests at U. D. and M. C. Towers, Joliet, Illinois. Mr. Peet, the Claimant, made the tests as instructed. Included in the tests made were S. D. Test I.C.C. rule 136.379 (route locking), S. D. Test I.C.C. rule 136.378 (time locking), S. D. Test I.C.C. rule 136.381 (traffic locking).

In March, 1965, Signal Supervisor R. S. Carle had issued instructions and a schedule on File R.C.-4 and R.S.-6 showing I.C.C. Rules involved, the frequency of inspections, test recorded and by whom the test should be made. The tests, referred to as S.D.-4 Reports, were assigned to the Signal Testman with "the Maintainer to assist as necessary."

On February 29, 1969, the Local Chairman filed a claim with Supervisor Carle in behalf of Mr. Peet for the difference in pay between Peet's rate of \$692.62 per month and that of a Testman, which is \$719.18 per month for eight (8) hours per day on February 1, 2, 5, 6, 7, 8, 9, 12, 14 and 15, and four (4) hours on February 13 and all future dates he is required to do Signal Testman's work.

Rule 1 and Rule 25 of the current Signalmen's Agreement provide the necessary criteria in this case.

"RULE 1. SIGNAL TESTMAN

An employee who is regularly assigned to and whose principal duties are the inspection and testing of signal appliances, apparatus, circuits and appurtenances, but who may perform any Signal Department work, shall be classified as a Signal Testman.

NOTE: Classification of Signal Testman will not cover positions of Inspectors from the Signal Engineer's office with rank and authority comparable to Assistant Signal Engineer nor include nor restrict inspection and tests made by Signal Supervisors or other officials of the company or manufacturers of equipment for the purpose

of determining whether employees coming within the scope of this agreement are properly installing or maintaining signal department apparatus, appliances, circuits and appurtenances; neither is it to be interpreted as restricting testing and inspection by any other qualified signal department employee as a part of his regular duties and at his regular rate. Signal testmen may work together in connection with their inspections without being considered, or requiring a foreman."

"RULE 25.

PRESERVATION OF RATE

An employee required to fill the place of another employee receiving a higher rate will receive the higher rate for time so assigned, except when an assistant signalman is required to relieve another assistant signalman, he will receive his own rate. An employee required to fill temporarily the place of an employee receiving a lower rate will not have his rate reduced."

The Claimant argues that he was required to fill the place of the Testman, who receives a higher rate of pay.

The Carrier argues that the Classification of Signal Testman is not to be interpreted as restricting testing and inspection by any other qualified signal department employee as a part of his regular duties and at his regular rate.

The Claimant counters that Supervisor Carle's instructions clearly show that the work in question, S.D.-4 Reports, were properly the work of the Testman with the Maintainer to assist as necessary.

The Carrier responds that Supervisor Carle's instructions do not and cannot change the application of the rules of the Agreement. Awards 10012 and 10188 are appealed to as precedent.

After carefully reviewing and studying Awards 10012, and 10188, it is clear to this Board that the incident situation is substantially different. The facts of this case are not the same as in Awards 10012 and 10188.

The record indicates that S.D.-4 Reports and tests were in arrears. The bulletined Signal Testman's job at LaSalle, Illinois was vacant. The Carrier assigned the Testman's work to the Claimant because the inspection and tests were overdue.

While we can agree with the argument that a Signal Maintainer performs the work of testing and inspecting as a part of his regular duties and that Rule 1 demonstrates that testing and inspecting relays is not the exclusive right of Signal Testmen, we do not read the Note of Rule 1 as an escape clause whereby the classification of Testmen is rendered meaningless.

The record establishes that the Claimant was doing a class of work that the parties had in mind when they established the classification Signal Test-

man. The record demonstrates that Carrier failed to fill the position of Testman and subsequently ordered Claimant to conduct the S.D.-4 reports. The record of this case indicates a recognized distinction between categories of signal tests and inspections so far as the work of the Maintainers and Testmen are concerned. In this case it was the function of the Maintainer to assist the Testman as necessary.

In view of the foregoing discussion and upon consideration of the testimony presented, exhibits introduced, and the Agreement the Chicago, Rock Island and Pacific Railroad Company and the Brotherhood of Railroad Signalmen of America, it is our conclusion that Claimant made the I.C.C. tests and inspections not as part of his regular duties—but he properly performed work earmarked for Testmen in completing the S.D.-4 Reports. The Carrier was in error in not compensating him at the rate of the Signal Testman when he performed these tests. When he only assists the Testman he is not entitled to the higher rate.

Under the special circumstances in this case the claim will be sustained.

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 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.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **THIRD DIVISION**

ATTEST: S. H. Schulty
Executive Secretary

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