

Award No. 18698
Docket No. SG-19128

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Gene T. Ritter, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

**CHICAGO, ROCK ISLAND AND 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 Signal Maintainer M. L. Barry for five and three-twelfths (5-3/12) hours at the punitive rate for August 30, 1969, account Carrier using a signal maintainer from an adjoining territory.

(Carrier's File: L-130-457; General Chairman's File: AV-486)

EMPLOYES' STATEMENT OF FACTS: Claimant M. L. Barry is a rest-day relief Signal Maintainer at Joliet UD Interlocking Plant, with the following work week:

Saturday and	
Sunday	— 6:00 A. M. to 3:00 P. M.
Monday	— 8:00 A. M. to 5:00 P. M.,
Tuesday and	less Noon to 1:00 P. M.)
Wednesday	— 3:00 P. M. to 11:00 P. M. lunch period.)
Thursday and	
Friday	— Rest days

On Wednesday, August 20, 1969, Mr. A. B. Richards, the first trick Signal Maintainer at UD, called upon the Signal Supervisor for assistance. Instead of using a Signal Maintainer assigned to UD, the Supervisor advised Mr. Richards to contact a Signal Maintainer from another signal maintenance territory.

Under date of September 30, 1969, the Brotherhood's Local Chairman initiated a formal claim on behalf of Mr. Barry for 5-3/12 hours at the punitive rate of pay, on the basis he was entitled to be used on the claim date under Rule 18 of the Signalmen's Agreement, particularly the last paragraph, which reads:

"Where three shifts are worked, either of the off duty regular assignees of the plant involved will be called when available for

NOTE: The word 'emergency' in this rule does not refer to vacancies caused by maintainers laying off or on vacation."

The Carrier declined this claim at each level of appeal, including decision by the Carrier's highest designated officer on the property. The basis under the contract for rejecting this claim was that the work involved did not constitute emergency service as provided by the Rule cited, rather it concerned only the performance of routine, programed signal work. The Carrier additionally argued that no provision of the agreement prohibited the use of Maintainers off their assigned territories to assist in the performance of such work. On the contrary, Rule 17, previously quoted, contemplates the use of Maintainers on other territories consistent with the Carrier's requirements.

APPEAL OF THE CLAIM ON THE PROPERTY

EXHIBITS SUBJECT

- A Copy of Form G-87 filed by M. L. Barry.
- B Copy of Carrier's initial declination, under date of September 5, 1969.
- C Copy of Local Chairman's appeal bearing date of September 30, 1969.
- D Copy of declination of Local Chairman's appeal, under date of October 13, 1969.
- E Copy of General Chairman's appeal to Carrier's Vice President-Labor Relations, under date of November 28, 1969.
- F Copy of Vice President-Labor Relations' initial declination, under date of December 23, 1969.
- G Copy of Vice President-Labor Relations' letter reaffirming initial declination, under date of January 19, 1970.

This claim was progressed under the provisions of the Agreement between this Carrier and the Brotherhood of Railroad Signalmen, bearing an effective date of July 1, 1952. Copy of the Agreement involved is on file with your Board and by reference hereto is made a part of this Submission. All correspondence and statements of position relative to this case were exchanged by the Parties or made known during handling of the claim on the property.

(Exhibits not reproduced.)

OPINION OF BOARD: On Wednesday, August 20, 1969, the First Trick Signal Maintainer at Union Depot requested the Signal Supervisor to give assistance in the Union Depot Interlocking Plant for the reason that an inexperienced towerman had been assigned at this location and was having difficulty carrying out his duties. The Signal Supervisor contacted and used a Signal Maintainer from another Signal Maintenance territory to provide this assistance. The Organization relies upon Rule 18(d) in support of their claim, which is:

"Where three shifts are worked, either of the off duty regular assignees of the plant involved will be called when available for emergency service with the maintainer on duty before other maintainers or signalmen are called. However, if the emergency occurs during regular working hours of an available gang, an employe of such gang may be used.

NOTE: The word 'emergency' in this rule does not refer to vacancies caused by maintainers laying off or on vacation."

The Organization contends that Carrier was obligated to call an employe from the same territory. Carrier states that Rule 18(d) applies only under emergency circumstances and that no emergency existed in this instance. Carrier further alleges that even if an emergency did exist, and that whether an emergency existed or not, Carrier did not have sufficient force on duty on the territory to handle the work load. Carrier further relies upon Rule 17, 1(k) in defense of this claim, which is:

"Where work is required by the carrier to be performed on a day which is not a part of any assignment, it may be performed by an available furloughed or unassigned employe who will otherwise not have 40 hours of work that week; in all other cases by the regular employe."

and Rule 18 which is:

"When overtime service is required of a part of a group of employes who customarily work together, the senior qualified available employes of the class involved shall have preference to such overtime if they so desire."

This Board finds that the Record in this dispute fails to establish the existence of an emergency at the time of the alleged violation in this dispute. Therefore, Rule 18 does not apply and Rule 17 is found to be controlling. Had there been an emergency, Claimant would have had the right to be called in this instance. However, the work involved herein was pre-planned and did not constitute an emergency situation.

By this opinion, the Board does not intend in any way to jeopardize the right of a Signal Maintainer to his demand right to call under Rule 19 on one trick jobs. This opinion is confined to multiple trick situations.

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 not violated.

AWARD

Claimed denied.

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

**ATTEST: E. A. Killeen
Executive Secretary**

Dated at Chicago, Illinois, this 10th day of September 1971.