

 Award No. 18796

Docket No. SG-19042

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Arthur W. Devine, Referee

BROTHERHOOD OF RAILROAD SIGNALMEN

UNION PACIFIC RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Union Pacific Railroad Company that:

Assistant Signalman G. A. Schisler shall be compensated for the difference between his Assistant Signalman's rate of pay and a Signalman's rate of pay for the number of hours equal to those for which Assistant Signalman R. L. Wright was compensated while filling a Signalman's position on Signal Gangs 3710 and 3711.

(Carrier's File: A-10425)

EMPLOYES' STATEMENT OF FACTS: There is an agreement in effect between the present parties bearing an effective date of April 1, 1962, which is by reference made a part of the record in this dispute. Particularly pertinent here are the following rules thereof:

"RULE 15. PRESERVATION OF RATES. When an employe fills the position of another employe receiving a higher rate, he shall receive the higher rate, but if required to fill temporarily the place of another employe receiving a lower rate, his rate will not be changed except a lower rated assistant signalman relieving another signalman will continue at his own rate of pay."

"RULE 19. SENIORITY CLASSES. Seniority classes will be as follows:

Class 1 — Signal shop foreman
Signal foreman
Signal inspector
Assistant signal foreman
Assistant signal shop foreman
General relay repairman
General C.T.C. maintainer
Retarder yard maintainer
C.T.C. carrier maintainer
Relay repairman
Leading signalman

Division Engineer McDonald under date of August 27, 1969, declined the claim to Local Chairman Parsons. Copy attached as Carrier's Exhibit E.

Under date of August 30, 1969 Local Chairman Parsons advised Division Engineer McDonald his decision was unacceptable. Copy attached as Carrier's Exhibit F.

By letter dated September 18, 1969, General Chairman Wollbrinck appealed the claim to the Carrier's Chief Engineer R. M. Brown, copy attached as Carrier's Exhibit G.

Chief Engineer Brown by letter dated October 22, 1969, declined the claim to General Chairman Wollbrinck. Copy attached as Carrier's Exhibit H.

By letter dated December 5, 1969 Chief Engineer Brown confirmed conference on the subject matter held with General Chairman Wollbrinck on December 4, 1969, extending the applicable time limits pursuant to the Organization's request. Copy attached as Carrier's Exhibit I.

By letter dated March 23, 1970 Chief Engineer Brown confirmed conference held with General Chairman Parsons on January 20, 1970 reiterating his declination of the claim. Copy attached as Carrier's Exhibit J.

(Exhibits not reproduced.)

OPINION OF BOARD: The claim involved herein in favor of Claimant G. A. Schisler arises from the contention of the Petitioner that the Claimant in Award 18794 was used to fill positions of signalman on Signal Gangs Nos. 3710 and 3711, and that as Claimant Schisler was senior as assistant signalman to Claimant Wright, involved in Award 18794, he should have been used as signalman instead of Wright.

The Record shows that Claimant Schisler worked the entire period as Assistant Signalman.

As we found in Award 18794, that Petitioner failed to prove that Claimant Wright filled the position of signalman within the meaning of Rule 15, there is no proper basis in our present docket for claim in favor of Claimant Schisler for signalman's rate for the number of hours worked by Wright. The claim will, therefore, 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 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

Claim denied.

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

ATTEST: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 29th day of October 1971.