

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20755
Docket Number SG-20690

William M. Edgett, Referee

(Brotherhood of Railroad Signalmen

PARTIES TO DISPUTE: (

(The Kansas City Southern Railway Company

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Kansas City Southern Railway Company:

(a) Carrier violated and continues to violate the Signalmen's Agreement, particularly Rule 6, when, commencing on or about November 8, 1972, Carrier failed or refused to compensate monthly-rated Signal Maintainer K. A. Sanders, who became ill on or about said date and continues to be ill, in accordance with applicable provisions of the Rule.

(b) Carrier should now pay Signal Maintainer K. A. Sanders full time for ten (10) workdays, beginning November 8, 1972, or the first workday which Claimant was unable to work due to his illness. Carrier should also pay Claimant Sanders half time beyond the first ten days of his illness, for all workdays in 1972, not exceeding sixty, on which he is unable to work due to his illness. In the event Claimant's illness extends into 1973, Carrier shall pay Claimant half time for all workdays, not exceeding sixty, on which he is unable to work due to the illness, starting with the first workday in 1973. (Carrier File: 013.31-127)

OPINION OF BOARD: Claimant was injured in an off-the-job accident and was forced to lay off for a period of time. The employees take the position that Rule 76 provides compensation for employees so injured. That Rule reads:

"Rule 76 - Monthly Rated Employees

"An employee assigned to the maintenance of a section who does not return to home station daily, and employees regularly assigned to perform road work may be paid on a monthly basis.

"Such employees shall, however, be assigned one regular rest day per week, Sunday if possible, and pay rules applicable to other employees shall apply to service performed on such assigned rest day. Ordinary maintenance or construction work not required on Sunday prior to September 1, 1949 will not be required on the sixth day of the work week.

"The monthly rates payable to such employees shall be the rates in effect August 31, 1949, reduced by \$2.43 per month, and future wage adjustments shall be made on the basis of 313 eight-hour days per calendar year ($313 \times 8 = 2504$). The straight time hourly rate will be arrived at by multiplying the monthly rate by 12 and dividing by 2504. No overtime is allowed for time worked in excess of eight hours per day on assigned work days. On the other hand, no time is to be deducted unless the employee lays off of his own accord or because of sickness or accident. In case of sickness, full time shall be allowed for a period of not to exceed eight and one-third ($8\frac{1}{3}$) days in any calendar year and half time shall be allowed beyond such eight and one-third ($8\frac{1}{3}$) day limit for a period not to exceed fifty (50) days in any calendar year.

"Salaries of other employees paid on a monthly basis shall be determined in the same manner.

"The regularly assigned road men under the provisions of this rule may be used, when at home point, to perform signal shop work in connection with the work of their regular assignments.

"While away from home point, employees will be paid necessary expenses.

"If it is found that this rule does not produce adequate compensation for certain of these positions by reason of the occupants thereof being required to work excessive hours, the salary for these positions may be taken up for adjustment."

Rule 76 clearly shows that the parties intended to deduct time when an employee laid off on his own accord, when an employee was off because of sickness, and when an employee was off because of accident. However, they went on to provide partial compensation in the case of sickness and this provision is found in the following sentence at the end of paragraph 3 of the Rule:

"In case of sickness, full time shall be allowed for a period not to exceed eight and one-third ($8\frac{1}{3}$) days in any calendar year and half time shall be allowed beyond such eight and one-third ($8\frac{1}{3}$) day limit for a period not to exceed fifty (50) days in a calendar year."

No other exception is stated, and the Board would be violating the basic principles of contract construction if it were to add another exception by its interpretation of Rule 76. This we may not do and accordingly we must 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 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.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 18th day of July 1975.