

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21230  
Docket Number SG-20864

Lloyd H. Bailer, Referee

PARTIES TO DISPUTE: { (Brotherhood of Railroad Signalmen  
(Chicago and North Western Transportation Company

STATEMENT OF CLAIM: Claim of the System General Committee of the Brotherhood of Railroad Signalmen on the Chicago and North Western Transportation Company:

(a) On April 16, 1973 the carrier violated the current Signalmen's Agreement, particularly revised rule 60, when Mr. Simons, Asst. Division Manager-Engineering conducted an investigation of Mr. R. Fawn.

(b) The carrier now be required to compensate Mr. Fawn, for 10 hours pay for attending this investigation, and clear his personal service record of the 60 days deferred suspension, submitting notice of such removal.

[Carrier's File: D-9-8-150]

OPINION OF BOARD: This claim concerns whether Carrier violated that portion of Agreement Rule 60 (Investigation and Discipline) stating: "Such investigation will be conducted by a supervising officer of the Signal Department." The investigation of Claimant R. W. Fawn, a Signal Maintainer, was conducted by J. L. Simons, who held the title of Assistant Division Manager-Engineering. Petitioner maintains this Carrier representative was not a supervising officer of the Signal Department -- as required by the rule, that the 60 day deferred suspension assessed against claimant as a result of the investigation therefore should be revoked, and that claimant also should be compensated in the amount of 10 hours pay for attending the investigation.

Carrier states that for many years the Signal Maintainers' immediate supervisors reported directly to the Signal Engineer, located in the Chicago Headquarters, but prior to the incident which precipitated the disputed investigation the C&NWT went to a Division Manager concept, under which Signal Supervisors report to and work under the jurisdiction of the Assistant Division Manager-Engineering instead of the Signal Engineer. Carrier further states that the "Signal Department" referred to in Rule 60 is now just one part of the Engineering Department, and the Assistant Division Manager-Engineering is a supervising officer of the Signal Department within the meaning of the rule, since he has supervision of signal maintenance and other signal engineering on the division. Carrier also maintains that even if it were held that a technical violation of the rule occurred, claimant was not prejudiced thereby.

Petitioner responds it is a "ridiculous" contention that the Signal Engineer "has no jurisdiction over subordinate signal officers." Petitioner contends the Signal Engineer "obviously is an officer in, of and for, the Signal Department."

This dispute does not involve whether the parties have the right to deal with each other through representatives of their own choosing. We are confronted with a contract interpretation question concerning whether Carrier violated its agreement with Petitioner that an investigation conducted pursuant to Rule 60 "will be conducted by a supervising officer of the Signal Department."

The evidence establishes that the Assistant Division Manager-Engineering who conducted the investigation (J. L. Simons) has jurisdiction over the entire Engineering Department on Carrier's Wisconsin Division, on which this claim arose, and by virtue of this jurisdiction he has responsibility for the operation of the Signal Department on the Division. But this circumstance does not make him a supervising officer of the Signal Department, as plainly stated in Rule 60. If Carrier's administrative reorganization made the rule language in question difficult or impractical to apply, it had an obligation to so inform Petitioner and endeavor to negotiate an appropriate revision. There is no evidence that such an attempt was made. 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 Employee involved in this dispute are respectively Carrier and Employee 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.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST:

*A. W. Pauls*  
Executive Secretary