NATIONAL RAILROAD ADJUSTMENT BOARD

Award Number 21728
THIRD DIVISION Docket Number SG-21699

Robert W. Smedley, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(Southern Railway Company

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Southern Railway Company et al.:

On behalf of F. M. Miller, Signal Maintainer, headquarters Austell, Ga., for ten (10) hours and forty (40) minutes account violations of Rules 36 and 37 of the present Signalmen's Agreement with Southern Railway:

1. For two hours and forty minutes on March 11, 1975, account of red signals between Austell, Ga. and Douglasville, Ga.. Chief Dispatcher called Mr. Miller at 7:15 P. M., and wanted to know what he found that caused train #2 to get a delay between Austell and Douglasville. Mr. Miller informed the Dispatcher, he had not been called for the trouble.

2. For two hours and forty minutes account of signal trouble on March 20, 1975, reported at 4:45 A. M. by train #65, Birmingham Local, bottom light out on #1 track M. P. 134.9H, caused by bulb burned out. Carrier did not notify Mr. Miller, but left note for him to fix after work time that morning.

3. For two hours and forty minutes account of not being called to clear signal trouble at M. P. 134.9, reported by train #155 west. Carrier waited until after work time to call Signal Maintainer Miller. Train #1 was delayed 10 minutes.

4. For two hours and forty minutes account of Supt. D. E. Barker called Signal Maintainer Miller at 9:43 P.M. wanting information at what time Supervisor Marbury called him to report green light out in Signal 42-INB #1 track. Mr. Marbury reported light out to Signal Maintainer Miller at 8:05 A.M. on March 27, 1975, after Chief Dispatcher Howard had called Signal Maintainer Miller at 6:30 A.M. on March 27, 1975. This information could have been obtained easily from Mr. Marbury, it would not have been necessary to call Mr. Miller after working hours. /Carrier's File - SG-111/

OPINION OF BOARD: We shall first discuss parts 2 and 3 of the claim. These say that Claimant should have received overtime calls rather than being directed to fix signals when he got to work. Neither Rule 36, hereinafter quoted, or any contract provision supports the claims. In the absence of a contract requirement to the contrary, the Carrier retains the prerogative to direct when work shall be performed. Parts 2 and 3 of the claim must be denied on that basis.

Parts 1 and 4 of the claim ask for a call due to being contacted by telephone after hours on Company business.

"Calls-Rule 36: (Revised-effective September 1, 1949)

Employees released from duty and notified or called to perform service outside of and not continuous with regular working hours will be paid a minimum allowance of two (2) hours and forty (40) minutes at the rate of time and one-half for two (2) hours forty (40) minutes work or less. If held on duty more than two (2) hours forty (40) minutes they will be paid at rate of time and one-half computed on actual minute basis. The time of employees, when notified in advance, will begin at the time required to report and end when released at designated point at home station. The time of employees called to report at once will begin at the time called and end at the time they return to designated point at home station."

Two recent cases settle the issue. Award 21295 (McBrearty) and 21561 (Randles). These involve the same parties before this Division. Being paid for a telephone inquiry would have to be achieved by contract negotiation. Rule 36 does not so require.

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

The Agreement was not violated.

A W A R D

Claims denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. W. Paulos
Executive Secretary

Dated at Chicago, Illinois, this 29th day of September 1977.