

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22089
Docket Number SG-21972

George S. Roukis, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(Norfolk and Western

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood
of Railroad Signalmen on the Norfolk and Western
Railway Company:

(A) The Carrier violated Article 1, Section 5 (a) of the January 29, 1975 Agreement when on the first pay period of March 1975, it used the time and one-half rate of \$9.4650 per hour instead of rounding off to the nearest cent as provided for in Article 1, Section 5 (a): Hourly Rates - Add the specified per cent to the existing hourly rates of pay. Round the resulting hourly rates to the nearest whole cent. Fractions less than one-half cent shall be dropped, and fractions of one-half cent or more shall be increased to the nearest full cent.

(B) The Carrier now pay Signal Maintainer B. V. Clyburn the difference between \$9.4650 the overtime rate that was paid him in the first pay period of March 1975 and \$9.47 per hour as provided for in the January 29, 1975 Agreement.

This claim is filed as a continuing violation in accordance with Article V (3) of the August 21, 1954 Agreement.

OPINION OF BOARD: Petitioner in this instance is asking this Board to interpret the language of Article I, Section 5(a) of the National Wage and Rules Case Agreement of January 29, 1975 which provides:

"Section 5 - Application of Wage Increases

"The increases provided by Sections 1 through 4 above shall be applied as follows:

"(a) Hourly Rates - Add the specified percent to the existing hourly rates of pay. Round the resulting hourly rates to the nearest whole cent: Fractions less than one-half cent shall be dropped, and fractions of one-half cent or more shall be increased to the nearest full cent."

The specific reference here is to the overtime rate of pay which is computed on the basis one and one-half times the basic pro rata hourly rate.

Based upon the record in this case, it is obvious that petitioner has not made a prima facie case that any violation of the provisions of Section 5(a) of the January 29, 1975 National Agreement has occurred. Neither have they shown that the method employed by the Carrier to compute the overtime rates of pay for employees represented by the Signalmen's organization is in violation of any rule of the Agreement, National or otherwise. In short, the burden of proof which is petitioner's to bear has not been met in this instance.

Therefore, the claim as presented must be and is 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;

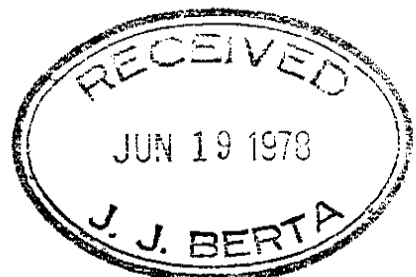
That the Carrier and the Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Agreement was not violated.

A W A R D

Claim denied.



NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. W. Paulos
Executive Secretary

Dated at Chicago, Illinois, this 31st day of May 1978.