

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22153
Docket Number SG-22109

Joseph A. Sickles, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(Louisville and Nashville Railroad Company

STATEMENT OF CLAIM: "Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Louisville and Nashville Railroad Company:

On behalf of Signal Maintainers J. F. Damron, R. N. Freeman, J. C. Anderson, L. M. Callis, and F. E. Williams, for 4 hours each at their respective time and one-half rates, account being assigned to assist Signal Maintainers at Radnor Yard in re-shoeing the group retarder 9-16 on September 9, 1975."

[Carrier file: G-265-11, G-265]

OPINION OF BOARD: Each Signal Maintainer Claimant is assigned to a specific signal maintenance territory with designated headquarters. On the claim date, Claimants suspended regular work and reported to Radnor retarder yards to assist for four (4) hours. As a result, a claim was filed for four (4) hours' overtime pay, asserting a violation of Rule 27(a) and Rule 14:

"(a) Except in emergency, an employe will not be changed from his assigned position or from one shift to another. If changed from one position to another within the hours of his regular assignment, he shall be paid at the straight time rate and in accordance with the provisions of this agreement for such hours but shall not be paid for time not worked on his regular bulletined assignment. If changed from one shift to another he shall be paid overtime rate and in accordance with provisions of this agreement until returned to his regular shift but shall not be paid for time not worked on his regular bulletined assignment. This rule shall not apply to employees exchanging positions or shifts for their own convenience nor when exercising seniority."

"RULE 14. ABSORBING OVERTIME

Employees will not be required to suspend work during regular working hours to absorb overtime."

As we read the record, we do not find evidence which suggests that an emergency situation dictated Carrier's action. Thus, argues Claimants, the first sentence of Rule 27(a) precludes Carrier from requiring an employee to change from his assigned position.

Carrier notes that the Claimants were assisting other Signal Maintainers on another territory and all Claimants received pay for a full eight (8) hours at the straight time rate on the claim date.

We find nothing of record which indicates that any of the employees were changed from one shift to another.

It becomes apparent, from a review of the documents, that Claimants equate a direction to perform work in another territory as a change from "his assigned position." Thus, the claim for time and one-half does not generate from Rule 27, as such, but is, in actuality, a "penalty payment." (See Page 1 of Brotherhood Exhibit 5).

In support of its position, Carrier relies upon various documents which, it urges, shows a consistent past practice. Claimants seek to distinguish, and thus minimize, the documents.

While we will concede that Rule 27(a) may be susceptible to conflicting interpretations, in order to accept the meaning placed upon the Rule by the Claimants, we would require a stronger showing than is evident here that the parties intended that the use of a Signal Maintainer, on his normal shift, to assist another employee in a different territory is a change from assigned position. Of course, our Award is limited solely to the factual circumstances before us and does not profess to dispose of future disputes with disparate factual circumstances.

We find no merit in the assertion that Rule 14 was violated. See Award 18455, citing Award 16611.

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 claim be dismissed.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Paulos
Executive Secretary

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