

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22422
Docket Number SG-22403

George S. Roukis, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(Southern Pacific Transportation Company
((Pacific Lines)

STATEMENT OF CLAIM: "Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Southern Pacific Transportation Company (former Pacific Electric Railway Company):

(a) The Southern Pacific Transportation Company (former Pacific Electric Railway Company) has violated the Agreement effective September 1, 1949 (including revisions) between the Company and the employees of the Signal Department represented by the Brotherhood of Railroad Signalmen, the Scope Rule and established practice.

(b) Mr. D. Burleigh, Signal Maintainer, Santa Monica Branch of the former Pacific Electric Railway Company, be allowed payment at his overtime rate for three hours on October 31, 1976."
/Carrier file: SIG 148-273/

OPINION OF BOARD: Claimant contends that when a signal malfunction occurred on the Santa Monica Branch which is on the maintenance territory assigned to him, carrier called and used another Signal Maintainer to perform the necessary repairs, when he was at home and available to assume the assignment. He avers that it has been the policy and the practice on this property to call the senior eligible employee at least twice to insure that a reasonable attempt was made to contact that person.

Carrier, on the other hand, argues that the Los Nietos operator did, in fact, promptly call him on October 31, 1976 but that no one answered the telephone. It contends that claimant's letter of November 5, 1976 affirming that he was home and available for work was insufficient confirmatory evidence and concludes that the exigencies of the moment plus its verified attempt to contact mooted the issue.

Accordingly, consistent with our appellate responsibility, this Board has carefully reviewed the detailed record to determine the precise contours and implications of this dispute. We believe, after this thorough examination, that we have discerned the basic procedural steps that should be observed in like or similar situations.

The Signal Maintainer, who is assigned to the line or branch where signal trouble occurs should be called first. This comports with established practice. There should be a reasonable rather than a minimal effort to contact the employee except in a clear emergency. (See, for example, Third Division Award 16279). Of course, in an emergency situation, carrier must exercise decisive judgment to remediate the problem. But, in the absence of such a contingency, carrier should make at least two phone calls to insure that the call went through.

X-1 In Third Division Award 21222, we stated that, "In many such cases in the past (primarily in non-emergency situations) we have even held that one call was not sufficient to discharge Carrier's obligation."

X-2 This procedure is not unreasonable. It obviates the potential difficulties identified by Referee Zack in Third Division Award 16279, where he perceptively noted that "a call could have gone wrong for a multitude of reasons, including a bad connection, a misdialled number, failing to reach an outside line if called through a switchboard, not awaiting a dial tone, repairs on the line or the use of a faulty piece of equipment."

This does not mean that after one telephone call in a non emergency situation, carrier should wait fifteen or twenty minutes before placing the second call. The malfunction, of necessity, must be repaired. Carrier should not be expected to wait an indeterminate period of time to correct a problem. It could develop into an emergency. But we think that a second call immediately or a few minutes thereafter should be made to demonstrate most effectively that a reasonable effort was taken to contact the employee.

The theory behind this policy is not to wait for an employee to return to his home before commencing the repairs, but to insure as reasonably as possible that an employee at home and available for overtime is called to perform such work.

Carrier's logging of the two or perhaps three phone calls should be sufficient proof that it complied with the intent and purpose of this practice.

In the instant case, we do not believe that an emergency existed and thus carrier should have called claimant a second time. This would have complied with the thrust and weight of our decisional law and reflect a reasonable rather than a minimal effort to contact the employee.

Based on this review and analysis, we will sustain 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 violated.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:


Executive Secretary

Dated at Chicago, Illinois, this 15th day of June 1979.