

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23468
Docket Number SG-23424

Martin F. Scheinman, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(St. Louis-San Francisco Railway Company

STATEMENT OF CLAIM: "Claim of the General Committee of the Brotherhood of
Railroad Signalmen on the St. Louis-San Francisco
Railway Company:

On behalf of Brother D. L. Miller, Traveling Signal Maintainer,
for eight hours' overtime pay for Saturday, March 17, 1979, under Rule 46,
account working with rail detector car." (Carrier file: D-9872)

OPINION OF BOARD: Claimant, D. L. Miller, Traveling Signal Maintainer, was
called on March 17, 1979, at 7:00 a.m., the sixth day of his
work week, to assist a Sperry Rail Test Car. On the course of this assignment,
Claimant bonded two defective rails and subsequently filed for eight (8) hours
overtime.

The Organization contends that Carrier violated the Agreement between
the parties by denying this overtime. The primary rule cited by the Organization
is Rule #46. It states:

"Rule 46.

(a) A traveling signal maintainer will be assigned an
individual territory and may be paid on either a monthly
or hourly basis as shown in Appendix Item 1. If he is
paid on a monthly basis, such rate shall cover all
service performed during the calendar month except:

(1) He will be assigned one regular rest day per week.
Sunday if possible. Rules applicable to hourly rated
employees shall apply to service on such assigned rest
day. Ordinary maintenance of construction work not
heretofore required on Sunday will not be required on
holidays or the sixth day of the workweek. If such
work, however, is performed, rules applicable to
hourly rated employees shall apply.

(2) When required to perform work outside the limits
of his assigned territory on a holiday, on the sixth
day of his workweek, or outside of his regular eight-
hour assignment on any other day, he will be additionally
compensated for such work in accordance with rules
applicable to hourly rated employees.

(3) Such time as he lays off of his own accord shall be deducted."

The Organization argues that the work performed by Claimant was ordinary maintenance or construction work which took place on the sixth day of his work week. It contends that when such work is performed, rules for hourly rated employees apply.

Carrier, on the other hand, contends that the work performed was not ordinary maintenance or construction work because the Sperry Rail Test Car is not operated regularly and therefore, is not service routinely performed as ordinary maintenance. Further, it contends that the claimed payment is excessive even if the work performed on the claim date had been ordinary maintenance or construction work.

In this dispute, from the evidence presented, it is clear that the operation of the rail test car, which is used to detect faulty places in rails, occurs regularly about once a year. It is also apparent that the resultant bonding of faulty rails is routine signalman work.

The record does not establish that the performance of the work was unusual. We are not convinced that its performance was extraordinary. As such, we are compelled to reject Carrier's contention that the work performed by Claimant was not ordinary maintenance or construction work.

Here, a signalman performed the ordinary maintenance or construction work on the sixth day of his work week. Therefore, Claimant must be compensated consistent with the terms of Rule 46(a).

As to the amount of overtime due Claimant, it should be noted that there is a discrepancy about how long it actually took to perform the disputed work. In any event, we are convinced that the eight (8) hours overtime claimed is excessive. Therefore, we find that Claimant should be compensated at the overtime rate for a minimum call of two (2) hours and forty (40) minutes as per the call provision in the Agreement.

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

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That the Agreement was violated.

A W A R D

Claim sustained in accordance with the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: *A. W. Paulsen*
Executive Secretary

Dated at Chicago, Illinois, this 8th day of December 1981.