

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23537
Docket Number SG-2265

Dana E. Eischen, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
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(Central of Georgia Railroad Company

STATEMENT OF CLAIM: "Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Central of Georgia Railroad Company:

On behalf of Leading Signalman B. F. Jones, Central of Georgia Signal Gang 6, for five and one-half hours' overtime pay for April 14, 1977, account C&S Supervisor Crowe flagged crossing at Barbor Street, Eufaula, Ala. because crossing signal was not working properly, and for six and one-half hours' straight time pay for April 14, 1977, account C&S Supervisor Crowe working on crossing signal cable and assisting Signal Maintainer Reeves in ringing out and splicing crossing signal cable at Barbor St." (Carrier file: SG-254)

OPINION OF BOARD: At or about 11:30 A.M. on April 13, 1978 a backhoe working on the crossing at Barbor Street in Eufaula, Alabama severed the signal cables at that location, rendering inoperative the crossing signal at that location. Signal Maintainers C. R. Grace and H. T. Reeves worked on the necessary repairs until 12:30 A.M. on the morning of April 14, 1978. At that time, although the repairs were not completed, Signal Maintainers Grace and Reeves were relieved of duty by C & S Supervisor E. E. Crowe because they had outlived under the Hours of Service law.

Mr. Crowe then remained at the Barbor Street crossing until 6:00 A.M. During that time he provided flagging at that crossing to protect against train movements over the crossing. Supervisor Crowe left the crossing at 6:00 A.M. to rest and returned on or about 9:30 A.M. the same morning to flag for train No. 51 which departed Eufaula at approximately 10:00 A.M. Between 10:00 A.M. and 11:00 A.M. Mr. Crowe employed a ringing device to determine if wires were severed in more than one location. During that time Claimant and two other signalmen passed by the Barbor Street crossing and asked Supervisor Crowe if any assistance was needed. He responded it was not. Signal Maintainer Reeves arrived at the crossing at or about 11:00 A.M. and worked until the repairs were completed at approximately 3:30 P.M.

The claim at issue was initiated on behalf of Claimant by General Chairman C. R. Vaught by letter of March 4, 1977. The letter said in pertinent part:

"Please accept this as a claim in behalf of Central of Georgia Leading Signaller B. F. Jones, assigned to Signal Gang, Dumas Foreman, for five and one half ($5\frac{1}{2}$) hours overtime on April 14, 1977 account of Supervisor flagging the crossing from 12:30 AM until 6:00 AM, because the crossing signal was not working, and for six and one half ($6\frac{1}{2}$) hours straight time on April 14, 1977 account of Supervisor working on the signal cable and assisting Signal Maintainer Reeves in splicing signal cable from 9:00 AM until 3:30 PM."

Carrier denied the bulk of the claim but conceded that Supervisor Crowe did use the ringing device between 10:00 A.M. and 11:00 A.M. and offered to settle the claim by paying Claimant one hour's straight time. Carrier's offer of settlement was refused and the claim was appealed.

The Scope Rule at issue in this case reads as follows:

"SCOPE

This agreement covers the rates of pay, hours of service and working conditions of all employees, classified herein, engaged in the construction, installation, repairing, inspecting, testing and maintenance of all interlocking systems and devices; signals and signal systems; wayside devices and equipment for train stop and train controls; car retarder and car retarder systems; centralized traffic control systems; operative gate mechanism; operative highway crossing protective devices; spring switch mechanism; electric switch targets together with wires and cables; iron train order signals; signal cantilevers; power or other lines, with poles, fixtures, conduit systems, transformers, arrestors and wires or cables pertaining to interlocking and signal systems; interlocking and signal lighting; storage battery plants with charging outfits and switch board equipment; sub stations, current generating and compressed air plants, exclusively used by the Signal Department, pipe lines and connections used for Signal Department purposes; carpenter, concrete and form work in connection with signal and interlocking systems (except that required in buildings, towers and signal bridges); together with all appurtenances pertaining to the above named systems and devices, as well as any other work generally recognized as signal work."

Upon careful examination of the Scope Rule we do not find that the work of flagging is exclusively reserved to the Brotherhood of Railroad Signalmen. In the absence of such clear and unambiguous contract reservation the Organization must demonstrate a system wide pattern of exclusive performance to reserve such work to Signalmen. To the contrary, evidence presented on the record indicates that such diverse persons as Maintenance of Way Employees and "local police" have been assigned the work of flagging when automated signal devices have failed.

Accordingly the portion of the claim which seeks $5\frac{1}{2}$ hours at the overtime rate for flagging by the Supervisors must be denied.

As for the second part of the claim which seeks $6\frac{1}{2}$ hours at the straight time rate for signal maintenance work performed on the damaged cable by the Supervisor, the record does show a violation of the Scope Rule supra. However, there is no evidence to show that the Supervisor performed more than one (1) hour of such work. Accordingly the claim should be sustained but with damages limited to one (1) hour at the straight time rate.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the Carrier and the Employee involved in this dispute are respectively Carrier and Employee 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 in accordance with the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:



Executive Secretary

Dated at Chicago, Illinois, this 26th day of February 1982.