

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24072
Docket Number SG-23780

Martin F. Scheinman, 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 (Pacific Lines):

(a) The Southern Pacific Transportation Company (Pacific Lines) has violated the agreement effective October 1, 1973, between the Company and the employees of the Signal Department represented by the Brotherhood of Railroad Signalmen and particularly Rules 7, 9, 16 and 72.

(b) Mr. T. L. Spangler be allowed additional compensation for fifteen hours at his overtime rate on April 1, 1979." (Carrier file: SIG 148-288)

OPINION OF BOARD: Claimant T. L. Spangler, at the time the dispute arose, was a signalman assigned to Gang No. 23 at Klamath Falls, Oregon. J. B. Wisor was a Leading Signalman assigned to the same gang. On Sunday, April 1, 1979 J. B. Wisor was called in by Carrier to handle crossing gate trouble at Viewland, California, resulting in fifteen hours overtime pay.

The Organization argues that Claimant should have been called in on April 1, 1979 since he was senior in service to Wisor. It claims that Rule 16 supports its contention. In relevant part, Rule 16 states:

"Where gang men are required to work overtime, the senior man in a class in the gang shall be given preference to such overtime work."

The Organization argues that "class" in Rule 16 means "seniority class" and not "classification". It notes that in other places in the agreement "class" means "seniority class" and that, therefore, the word "class" should be applied consistently throughout the agreement.

The Organization also maintains that other Rules in the agreement, particularly Rules 7, 9 and 72 require that the overtime work should have been given to Claimant. Therefore, the Organization asks that Claimant be compensated for fifteen hours at his overtime rate on April 1, 1979.

Carrier, on the other hand, asserts that it did not violate the Agreement. It points to a number of other Awards on this property which indicate that "class" in Rule 16 means "classification" and not "seniority class".

The Carrier also objects to any consideration by the Board of Rules other than Rule 16. It notes that no other Rules allegedly violated were referred to by the Organization until June 20, 1979, eighty-two days after the occurrence.

Furthermore, the Carrier claims that none of these additional Rules cited by the Organization were violated. It maintains that none of these Rules prohibit the assignment of the overtime work to Leading Signaller J. B. Wisor.

First, we are convinced that Rules 7, 9 and 72 are not apposite here. They simply do not relate to the underlying dispute presented. Thus, the crucial rule is Rule 16.

After analyzing the evidence and argument presented, we must conclude that the claim is without merit. As such, we will deny it in its entirety.

The same basic issue was decided by this Board in Awards 12668 and 12936. In those, and several other cases, we have rejected the claims advanced by the Organization here.

This Board has long held to the view that in the absence of convincing evidence that an earlier award was palpably erroneous that the earlier award not be overturned. While the Organization has raised significant points here, we are nevertheless persuaded that the Employees have failed to establish that our earlier holdings were palpably erroneous. In the absence of such proof - consistent with the time honored doctrine of stare decisis - the claim must fail. We will deny it in its entirety.

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.

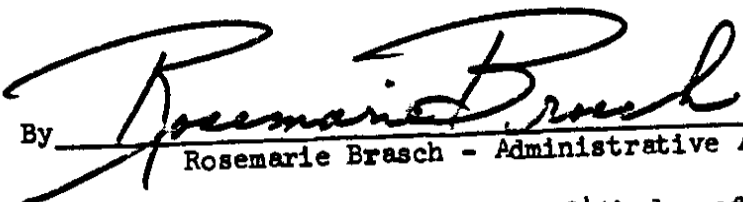
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NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: Acting Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 14th day of December 1982.