

The Third Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(Seaboard System Railroad

STATEMENT OF CLAIM: "Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Seaboard System Railroad (formerly Louisville and Nashville).

On behalf of Signalman J. M. Redman for 5 hours and 45 minutes, at his pro rata rate of pay, account of Carrier violated the Signalmen's Agreement, particularly Rules 3 and 60 when, on July 21, 1984, it permitted or allowed Signal Foreman P. E. Kirkpatrick to drive company van from Nashville, Tennessee to Corbin, Kentucky. Carrier File: 15-60 (85-5)L."

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employees involved in this dispute are respectively carrier and employees within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

Signal Gang #5 was relocating from Nashville to Corbin on July 21, 1984. The Claimant, a Signalman who was a member of the Gang, requested permission to be assigned the work of driving the signal van from Nashville to Corbin. His Foreman refused the request and drove the van himself. The Claimant then drove his personal vehicle, while under pay.

The Organization argues that the Claimant was improperly denied the work involved in driving the van and seeks pay therefor, citing Rules 3, 7, and 60, which read as follows:

"RULE 3. FOREMAN.

An employe who is assigned to direct the work performed by leading signalmen, signalmen, assistant signalmen and/or helpers. A foreman may make inspection or test of the job under way but shall not take the place of another employe."

"RULE 7. SIGNALMAN, SIGNALMAN MAINTAINER.

An employe assigned to perform work generally recognized as signal work. If assigned to a certain territory or plant, he will be classified as a signal maintainer."

"RULE 60. RIDING MOTOR CARS.

(a) It is understood and agreed that operating or riding on track motor cars or other conveyances used in lieu of motor cars, is work and is to be paid for as such under the provisions of this agreement."

The Organization's Scope Rule (Rule 1) includes no direct reference to the operation of vehicles. Rule 60 does contemplate such work and provides for pay for such assignment. The Organization has failed to show, however, that the work under review here (not within the specific duties in the Scope Rule) is work which is exclusively performed by Signalmen and which may not or has not been performed by Foremen. Such cannot be found to violate the prohibition of Rule 3 that a Foreman "shall not take the place of" a Signalman. Further, Rule 60, as argued by the Carrier, constitutes a pay rule, rather than a grant of exclusive right of "operating" a vehicle.

This is not a case of first impression. Third Division Award 10008 involves the same parties. While the fact situation therein is somewhat different, that Award states as follows:

"From a review of the record before us, we are of the opinion that the evidence here does not support the contentions of the Organization. Nothing is contained that gives the exclusive right to Signalmen to drive trucks as alleged here, and we find nothing before us to support the contention that such work is exclusive to Signalmen."

To the same effect are Third Division Awards 19822 and 23835, both of which involve the same Organization as here and deny claims concerning operation of trucks by Signal Supervisors.

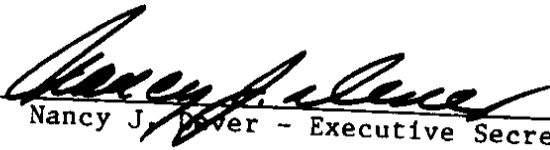
Award No. 26929
Docket No. SG-26810
88-3-85-3-712

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Pover - Executive Secretary

Dated at Chicago, Illinois, this 30th day of March 1988.