

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
(
(Southern Pacific Transportation Company
(Eastern Lines)

STATEMENT OF CLAIM: "Claims of the General Committee of the Brotherhood of Railroad Signalmen on the Southern Pacific Transportation Company (Eastern Lines):

Claim No. 1. Carrier file: 403-94-A

On behalf of Signalman Kenneth Saunders for 44 1/2 hours time and half and 7 1/2 hours double time account Carrier used a junior Signalman to service generators on August 19, 20 and 21, 1983, which were connected to the signal system to temporarily replace electrical power service interrupted by Hurricane Alicia.

Claim No. 2. Carrier file: 403-93-A

On behalf of Signalman B. J. Perry for twenty-four hours time and half account Carrier used other than a signal employee to service generators on August 20 and 21, 1983, which were connected to the signal system to temporarily replace electrical power service interrupted by Hurricane Alicia."

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 employes involved in this dispute are respectively carrier and employes 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 were given due notice of hearing thereon.

The Brotherhood of Maintenance of Way Employes received notice of these disputes as a third party at interest and declined to participate.

These claims concern work performed on Saturday and Sunday, August 20-21, 1983, in servicing electrical generators utilized on a temporary basis to replace power service interrupted by Hurricane Alicia. Claimants are

Signalmen who did not perform this work. In the first claim, the Claimant contends the work was performed by a junior Signalman; in the second claim, the Claimant states that the work was improperly assigned to an employee other than a Signalman.

The Carrier's principal contention is that both Claimants were on vacation for the regularly scheduled workdays Monday through Friday, August 15-19, 1983, and thus not eligible for overtime call on the rest days (Saturday and Sunday) which were part of their vacation week.

Third Division Award 23198 reviews previous Awards on this point and supports the view, as argued by the Carrier here, that an employee "has no rights to return to service [from vacation] until the first workday on which he is scheduled to return to work." Similarly, Second Division Award 7900 also reviewing previous Awards, states as follows:

". . . the vacation agreement under which the parties are governed refers to periods of five days. This relates to work days for which an employe shall receive vacation pay. It does not set vacation period, or such period's beginning and end, which, as noted above, has been mutually understood and accepted as a fixed time interval inclusive of both work days and related rest days."

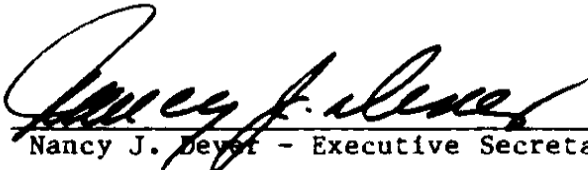
The record here shows no contention that the two Claimants were not on vacation for the period prior to the weekend which would have been their rest days.

With this conclusion, it is not necessary to examine the Scope Rule argument in reference to the instance involving the second Claimant where an employee other than a Signalman was called. Based on the discussion above, the Claimant had no call on work during the week-long vacation period, and the argument as to Scope Rule coverage is moot and requires no determination here.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: 
Nancy J. Devet - Executive Secretary

Dated at Chicago, Illinois, this 23rd day of November 1988.