

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 32103
Docket No. SG-32557
97-3-95-3-473**

The Third Division consisted of the regular members and in addition Referee James E. Yost when award was rendered.

**(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(Southern Pacific Transportation Company**

STATEMENT OF CLAIM:

"Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Southern Pacific Transportation Co. (SP):

Claim on behalf of J.L. Rhines, R.M. Gardea, R.P. Follett, M.D. Sanchez, W.T. Cross, G.L. Reitz, R.G. Bradley, W.W. Yarborough, W.R. Main, and G.L. Yarborough for restoration of their four day work week and payment at the time and one-half rate for all service performed on Fridays, beginning June 24, 1994 and continuing until this matter is resolved, account Carrier violated the current Signalmen's Agreement, particularly Rule 5, when it changed the Claimants from a four day work week to a five day work week. Carrier's File No. SIG 94-56. General Chairman's File No. SWGC-979. BRS File Case No. 9677-SP."

FINDINGS:

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

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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.

Claim was filed by the Organization on behalf of the members of Signal Gang No. 005, Roseville, California, and Signal Gang No. 29, Colfax, California, on August 1, 1994, asserting that Carrier improperly changed the Claimants' work week from four 10 hour days to five 8 hour days beginning with the week of June 20-24, 1994. Claimants had been working a work week of four 10 hour days for approximately four years prior to the change.

Rule 5, 40 Hour Work Week, provides in paragraph (k) (1), captioned Accumulation of Rest Days, in pertinent part:

"(1) Members of Signal Gangs may, by majority, elect to have their hours of assignment and work days established to work four (4) ten (10) hour consecutive work days and accumulate three (3) rest days or eight (8) ten (10) hour consecutive work days and accumulate six (6) consecutive rest days or twelve (12) ten (10) hour consecutive work days and accumulate nine (9) consecutive rest days, consistent with the requirement of the service or work hours of other gangs." (Emphasis added)

It is the Organization's position that Carrier's arbitrary change of the work week violated the provisions of Rule 5 (k) (1) in that it failed to show that the change was required to meet its service requirements.

Carrier defends against the claim on three fronts. First, it takes the position that the "Spirit of Intent" of Rule 5 (k) (1) was to provide signal gangs working away from home the opportunity to work four 10 hour days and thus have three days home with the family each week. Further, that neither Gang No. 005 nor No. 29 have been denied the privilege of working four 10 hour days while away from home. Neither gang has worked away from home since the change to a five day work week.

Secondly, it was never the intent that Rule 5 (k) (1) be applied to any and all gangs by simple election by the members.

Thirdly, budget restraints resulting in reduction of force made it necessary to rearrange its signal forces to meet the requirements of the service.

The record reveals that the Organization did not dispute that the intent of Rule 5 (k) (1) was to afford signal gangs working away from home the opportunity to work four 10 hour days so as to have three days off to spend with the family. Further, the Organization does not dispute that the two gangs have not been required to work away from home since changing to a five day work week.

The Organization argues that "almost all of the signal gangs on the system are on four 10 hour days, headquarters point included," but it does not deny that Rule 5 (k) (1) was not intended to apply to any and all gangs by simple election of the members of a gang.

We find no denial by the Organization of Carrier's statement that budget restraints resulting in a reduction of force made it necessary to rearrange its forces. This fact in itself leads the Board to conclude that service requirements was the underlying factor for changing the work week from four 10 hour days to five 8 hour days.

This Board further concludes that the intent of the parties in negotiating Rule 5 (k) (1) was to provide employees working on line of road away from home an opportunity to have three days each week to take care of family business and be with their family. In the instant case, the members of Signal Gang Nos. 005 and 29 are no longer required to work on the line of road away from their home point. This being so, Rule 5 (k) (1) has no application to them.

Upon review of the awards submitted by the Organization as lending support to its position herein, the Board concludes that they lend no comfort as they are founded on facts and agreement rules unlike what is involved in this case.

For the reasons discussed herein, the Board is persuaded that Rule 5 (k) (1) was not violated. The claim will be denied.

AWARD

Claim denied.

Form 1
Page 4

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ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 9th day of July 1997.