

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 35705
Docket No. SG-35595
01-3-99-3-516**

The Third Division consisted of the regular members and in addition Referee Curtis Melberg when award was rendered.

**(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(Kansas City Southern Railway Company**

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Kansas City Southern Railroad (KCS):

Claim on behalf of R. E. Thomasson for payment of 5 hours pay at the time and one-half rate, account Carrier violated the current Signalmen’s Agreement, particularly Rules 12(b), 10(d) and 2(f), when it notified the wrong person to clear a trouble case on the Claimant’s assigned mark-off partner’s territory. Carrier’s File No. K0698-5081. General Chairman’s File No. BRS 985712. BRS File Case No. 11044-KCS.”

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.

The Claimant was assigned as Signal Maintainer, Job 855, at Hughes Springs, Texas. On Saturday, December 13, 1997, he was protecting stand by call service on his

assigned territory as well as the assigned territory of Signal Maintainer Job 856, headquartered at Shreveport, Louisiana, whose regular incumbent had marked off for the weekend. Located within the assigned territory of Signal Maintainer Job 856 was a facility known as the Cedar Grove Interlocker.

At 1:00 P.M., Saturday, December 13, 1997, signal trouble occurred at the Cedar Grove Interlocker. Responding thereto, the Carrier directed Signal Inspector A. L. Orendorff to the scene to make the necessary repairs. Orendorff was on duty at the time, working his regularly assigned shift at his straight-time rate of pay, and the Cedar Grove Interlocker was located within his assigned territory. He made the repairs as directed.

The Organization alleges the Carrier violated the Agreement when it had Signal Inspector Orendorff make the repairs at the Cedar Grove Interlocker. The Claimant should have been called instead, the Organization asserts, because he was available to take the call and was protecting Signal Maintainer 856's territory, within which the interlocker was located. The Organization further asserts the repair work done "... is not the regular assigned duties of the Inspector." Cited in support of the claim are Rules 2(f), 10(d) and 12(b):

"RULE 2 - CLASSIFICATION

* * *

(f) **SIGNAL MAINTAINER:** An employee assigned to maintain a designated territory, to inspect, test, adjust, repair, clear trouble on, and maintain signal equipment including electronic signal equipment, all detector systems specified in Rule 1 of this agreement. He shall also perform installations incidental to the maintenance of his designated territory.

RULE 10 - OVERTIME CONTINUOUS WITH ASSIGNED HOURS

* * *

(d) Employees notified or called to perform work outside of and not continuous with regular working hours will be paid a minimum allowance

of two hours and forty minutes at the applicable overtime rate. If held longer than two hours and forty minutes, they will be paid at the applicable overtime rate computed on the actual minute basis. The time of an employee so called shall begin at the time required to report and end at the time he returns to designated point at home station; if called for immediate service, time will begin at time called.

RULE 12 - CALLS (AVAILABILITY/COVERAGE AND PAY)

(b) . . . When Signal Maintainers are called by the Railway to perform work outside the limits of their assigned territories after regular hours of the work week and on Saturdays and designated holidays, the provisions of Rule 10 will apply.”

The Carrier defends its assignment of Signal Inspector Orendorff to make the repairs in question on several grounds: (1) scope covered work is not exclusively reserved to any of the employee classifications (2) no Rule in the Agreement gives Signal Maintainers the exclusive right to calls for clearing signal troubles (3) Inspector Orendorff was on duty at the time in question, the work he did was within his assigned territory, and no Rule prevented the Carrier from assigning him to do it; and (4) the Inspector classification in Rule 2(a) of the parties’ Agreement covers repair work.

Rule 2(a) of the parties’ Agreement reads, in pertinent part, as follows:

“INSPECTOR: An employee whose principal duties are (but not limited to) inspecting, testing and repairs of signal apparatus as outlined in Rule 1 [Scope] of this Agreement.”

The Organization, in our judgment, failed to sustain its burden of proving the Rules it cites were violated by the Carrier in this case. As we view the record, it is clearly apparent the Carrier did not call anyone to perform overtime work, at the overtime rate, outside the limits of their regularly assigned territory. It did not have to. It had Inspector Orendorff already on duty and under pay at the straight-time rate, and the repair work he did was done within the limits of his regularly assigned territory. Moreover, no probative evidence is presented establishing either that the repairs in question fall within the exclusive jurisdiction of Signal Maintainers or that such work cannot properly be assigned to Signal Inspectors.

Accordingly, the claim is denied.

AWARD

Claim denied.

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 19th day of September, 2001.