

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 43443  
Docket No. SG-44429  
19-3-NRAB-00003-170554**

**The Third Division consisted of the regular members and in addition Referee Paul Betts when award was rendered.**

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

**STATEMENT OF CLAIM:**

**“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Union Pacific Railroad:**

**Claim on behalf of D. Evans, for 12 hours at his overtime rate, account Carrier violated the current Signalmen's Agreement, particularly Rules 10, 11, 12, and 65 when on March 21, 2016, it improperly permitted a relief Maintainer to perform overtime service on the Claimant's assigned territory, thereby causing him a loss of work opportunity. Carrier's File No. 1657151. General Chairman's File No. N 100056. BRS File Case No. 15636-UP.”**

**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 worked as a Signal Maintainer on Gang 3741, with assigned work days of Tuesday through Saturday, with Sundays and Mondays as rest days. The Claimant's supporting Maintainer has assigned work days of Sunday through Thursday, with Fridays and Saturdays as rest days. On Monday, March 21, 2016, the Claimant's supporting Maintainer was on vacation. The Organization alleges that on Monday, March 21, 2016, the Carrier improperly allowed a Relief Signal Maintainer (RSM) rather than the Claimant, to perform overtime service on the Claimant's assigned territory, thereby causing the Claimant a loss of work opportunity.

The Organization argues a) the Claimant was the senior, available, regularly assigned employee on the territory to perform the disputed overtime, b) the Claimant was not registered as absent and was available to perform the work, c) the Carrier's reliance on Rules 1L and 17 are misguided when one considers that the Claimant was the senior, regularly assigned employee, possessed the identical work schedule as the employee who performed the disputed work, and when considering the supporting Maintainer was only on vacation one day.

The Carrier argues a) the Organization failed to demonstrate how the rules it was relying on supported its claim, b) because the regular employee for the position was on vacation, the Carrier utilized a RSM to cover the work for the day, c) the disputed work was performed by RSM G. Baldassano and it was his regular assignment, d) there was no violation of Rule 12, as no employee was called to perform the work, e) the Organization initially maintained Foreman Jones performed the claimed work, then claimed RSM Serio performed the claimed work. The Carrier maintains RSM Baldassano performed the work during regular hours. At best, there is a dispute of fact and the case should be dismissed.

After a thorough review of the record, the Board finds the Organization failed to meet its burden. Initially, the Organization alleged Foreman Jones allowed an unnamed relief maintainer to perform the work. Then the Organization alleged Foreman Jones himself performed the work. Following conference, and in its last-say letter, the Organization claimed RSM Serio performed the work. According to the Organization, RSM Serio worked 14.5 hours at the overtime rate. The Carrier maintains RSM G. Baldassano performed the work at 8 hours of regular pay and 1 hour of overtime. Here, there is a genuine dispute of fact as to who performed the work, how many hours were worked, and how the hours of work were allocated from a pay standpoint (regular rate or overtime rate). The pay records supplied by the Organization did not convince the Board that it was RSM Serio who performed the

disputed work. The payroll records supplied for RSM Serio and RSM Baldassano differed for the date in question. The Organization provided a Labor Distribution Approval List for RSM Serio for the March 21, 2016 date but failed to supply the same report for RSM Baldassano for that day. The payroll record supplied for RSM Baldassano for March 21, 2016 is the Employees Daily Time Detail List, which contains less detail and different information than the Labor Distribution Approval List used for RSM Serio.

Putting aside for the moment the dispute of fact noted above, the Organization argued the Carrier's reliance on Rules 1L and 17 is misguided because the supporting Maintainer was only on vacation for one day. The Board respectfully disagrees. The two rules state the following:

**“Rule 1L: Relief Signal Maintainer:** An employee headquartered on and assigned to the territory of a Manager Signal Maintenance but reporting to various Maintenance Foremen depending upon their assignment. A Relief Signal Maintainer will be used to cover a particular territory while a signal maintainer is on vacation, leave of absence, or similar circumstances. When not relieving a signal maintainer, such employee may be required to perform the duties of a regular signal maintainer and perform work without supervision, which may include FRA testing or normal signal maintenance work. Relief Signal Maintainer will not be used to eliminate any other positions.

**Rule 17:** When Signal Gang Foremen are off during vacation periods, or for other reasons, they will be relieved by the Assistant Signal Foreman or Lead Signalman assigned to that gang, if available. If not available, they will be relieved by the senior qualified employee in Class 1 assigned to the Signal Gang.

When Signal Maintainers or Signal Maintenance Foremen are off for periods that exceed one week in duration, they will, if relieved, be relieved by the Relief Signal Employee; and if not available, the senior qualified employee of Class 1 assigned to the Signal or Maintenance Gang.

**The Carrier will make every effort to provide vacation relief on Signal Maintainer positions when the incumbent is off duty longer than one week.”**

**Rule 17 contains mandatory language that is triggered when Signal Maintainers are off for periods that exceed one week in duration. The supporting Maintainer in the instant case was off on vacation for only one day. Just because the vacation period was for only one day, the language under Rule 17 does not negate the Carrier’s ability under Rule 1L to use relief maintainers for periods of vacation less than one week in duration.**

**Based upon the totality of the discussion above, the Board finds the Organization failed to meet its burden. As such, the claim must be denied.**

**Although the Board may not have repeated every item of documentary evidence, nor all the arguments presented, we have considered all the relevant evidence and arguments presented in rendering this Award.**

**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 1st day of March 2019.**