

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Bill Heskett, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

CHICAGO, ROCK ISLAND & PACIFIC RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Chicago, Rock Island and Pacific Railroad Company, that:

(a) The Carrier violated the current Signalmen's Agreement, as amended, particularly Rules 18 and 19, when it failed and/or refused to allow Signal Maintainer W. T. Tannehill, headquartered at Irving, Texas, to perform existing emergency work on his territory on July 26, 1962, beginning at approximately 4:50 P. M.

(b) The Carrier violated the National Agreement of August 21, 1954, particularly Article V, when Mr. E. L. Bartholomew, Supervisor of Communications and Signals, failed to deny the aforementioned claim when it was presented to him by Mr. R. A. Watkins, General Chairman, on September 11, 1962.

The Carrier be required to pay Signal Maintainer Tannehill four (4) hours at his punitive rate of pay.

[Carrier's File: L-130-266]

EMPLOYEES' STATEMENT OF FACTS: This dispute originated with Carrier's refusal to allow Signal Maintainer W. T. Tannehill to perform emergency work which existed on his assigned territory on July 26, 1962, at approximately 4:50 P. M.

The work involved was the replacement of Dwarf Signal No. DR-26 located at the north end of the siding at Tarrant, Texas. It had been knocked down by steel banding which was dragging from a carload of pipe in a moving train.

At about 4:00 P. M. the dispatcher notified Maintainer Tannehill who was at the Dallas new yard that the signal had been knocked down, and he was told to wait there until Assistant Signal Supervisor Laverty was contacted. At approximately 4:50 P. M. Mr. Tannehill was instructed to go home and to fix the signal the next morning. The Brotherhood contends that this action was in violation of Rules 18 and 19 of the current Agreement.

time and one-half, and when held on duty longer than two (2) hours and forty (40) minutes, time will be computed on actual minute basis and paid for at the rate of time and one-half. Time of employes so notified prior to release from duty will begin at the time required to report and end when they return to designated point at headquarters. Time of employes called will begin at the time called and end at the time they return to designated point at headquarters."

3. Rule 19 of the above Agreement reads as follows:

"SUBJECT TO CALL.

Signal maintainers recognize the possibility of emergencies in the operation of the railroad, and will notify the person designated by the management of their regular point of call. When such employes desire to leave such point of call for a period of time in excess of three (3) hours, they will notify the person designated by the management that they will be absent, about when they will return, and, when possible, where they may be found. Unless registered absent, the regular assignee will be called."

4. At about 4:00 P. M. on July 26, 1962, it was reported that Dwarf Signal DR-26, at the north end of siding at Tarrant, Texas, was knocked down.

5. It was determined not to have the signal repaired until the next day inasmuch as the necessary repair signal was not available and it would not be necessary to have the signal in operation until the next day.

6. The handling of this claim on the property is exemplified by the following:

CARRIER'S EXHIBIT A - Organization's September 11, 1962 letter of claim.

CARRIER'S EXHIBIT B - Carrier's September 20, 1962 letter of declination.

CARRIER'S EXHIBIT C - Organization's November 17, 1962 letter of first appeal.

CARRIER'S EXHIBIT D - Carrier's November 26, 1962 letter of declination of first appeal.

CARRIER'S EXHIBIT E - Organization's January 23, 1963 letter of second appeal.

CARRIER'S EXHIBIT F - Carrier's February 28, 1963 letter of declination of second appeal.

(Exhibits not reproduced.)

OPINION OF BOARD: It appears from the record that within the sixty day limitation provided by Article V, Section 1 (a) of the Agreement, Carrier did not deny the claim which had been duly filed by the Organization. We have previously held that the Organization is not charged with the burden of estab-

lishing that it did not receive the claim denial. Award 10173 (Bailer). In this case, such burden rests upon Carrier. Award 10742 (Miller), 11211 (Miller), 11893 (O'Gallagher) and 15070 (Zack). Upon this procedural point, we will sustain the claim.

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

That the parties waived oral hearing;

That the Carrier and the Employes involved in this dispute are respectively Carrier and Employes within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Agreement was violated by Carrier.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 8th day of December 1967.