

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION

Award No. 28493  
Docket No. SG-28613  
90-3-88-3-492

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

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen  
(Consolidated Rail Corporation (Conrail)

STATEMENT OF CLAIM: "Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Consolidated Rail Corporation:

Claim in behalf of the employees listed below, with headquarters at Lemoyne, Pennsylvania.

A. Claim that the Company violated the current Agreement between Consolidated Rail Corporation and Brotherhood of Railroad Signalmen, particularly Scope when they assigned Amtrak employees to do signal work on Conrail tracks (Royalton Branch) MP11 and MP22. Listed below are the dates, time and number of employees used.

June 8, 1987	three (3) hours	1 Inspt. 1 Sig.
June 10, 1987	one (1) hour	1 Inspt. 3 Sig.
June 11, 1987	five (5) hours 30 min.	1 Inspt. 2 Sig.
June 23, 1987	five (5) hours 30 min.	1 Inspt. 3 Sig.
June 24, 1987	four (4) hours	1 Inspt. 2 Sig.

B. Claim that the following employees be paid at the time and half rate of pay for the position listed and the hours stated above.

R. S. Morris 039005 Foreman	19 hours
K. W. Snyder 058744 Signalman	19 hours
W. S. Brougher 037278 Signalman	18 hours
D. E. Harper 038202 Signalman	6.5 hours

Carrier file SD-2445."

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 waived right of appearance at hearing thereon.

The triggering events leading to this Claim arose on July 15, 1987, when the Organization filed a Scope Rule Claim. It essentially asserted that Amtrak employees performed signal work that, by Agreement, belonged to Conrail Signalmen. Following a denial by the Carrier on July 20, 1987, the Organization on August 5, 1987, pursued its Claim to the next level. The record then shows that the Claim was docketed for discussion by letter from the Organization, dated January 4, 1988. The Carrier's letter of March 28, 1988, to the Organization states that the parties met on February 16, 1988, and discussed the Claims at issue here. However, while that same letter states that the Claim had been responded to in a timely manner, pursuant to Rule 4-K-1(b), we find no support for that statement in the record. That Rule reads:

"(b) A grievance or claim denied in accordance with paragraph (a) shall be considered closed unless it is appealed, in writing, to the Manager-Labor Relations by the employee or his union representative within sixty (60) calendar days after the date it was denied. If requested by the union representative, a grievance or claim will be discussed on a mutually agreed upon date. When a grievance or claim is not allowed, the Manager-Labor Relations will so notify, in writing, whoever appealed the grievance or claim (employee or his representative) within sixty (60) calendar days after the date of appeal or the date the grievance or claim was discussed (whichever is applicable) of the reason therefor. When not so notified, the claim will be allowed as presented."

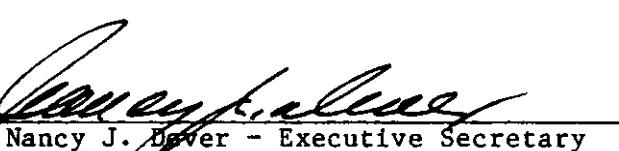
In view of the foregoing, the Claim is sustained.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

  
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 7th day of August 1990.