

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 29770
Docket No. SG-29565
93-3-90-3-518

The Third Division consisted of the regular members and in addition Referee John B. LaRocco when award was rendered.

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

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

Claim on behalf of D.A. Fitting, for payment of six and three quarters (6.75) hours pay at his punitive rate of pay, account of Carrier violated the current Signalmen's Agreement, as amended, particularly, the Classification Rule, when it did not use him to restore the Morrisville Line eastbound Hot Box Detector to service at 12:15 p.m. on March 16, 1989." Carrier file SG-115. BRS Case No. 8080-CR.

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 waived right of appearance at hearing thereon.

Claimant, an Electronic Technician headquartered at Woodbury, New Jersey, claims that he should have been called to reconnect and then test the Morrisville Line eastbound hot box detector on the afternoon of March 16, 1989. The Carrier used an available Signal Maintainer to perform the work. Claimant contends that he was the "regular employee" within the meaning of Rule 5-A-1(h) which provides in pertinent part:

"Where work is required by the Company to be performed by an available unassigned employee

who will otherwise not have forty (40) hours of work that week; in all other cases by the regular employee." (See Appendix 'P')

Claimant further submitted that he normally performs work on hot box detectors as part of his regular assignment. Moreover, Claimant asserted that the Carrier's utilization of a Signal Maintainer to restore the hot box detector at Morrisville was a violation of the applicable classification of work rules. For the alleged violation, Claimant seeks six and three-quarters hours at the overtime rate of pay.

With regard to Claimant's assertion that he was the regular employee who should have been called under Rule 5-A-1(h), the Board finds insufficient evidence of record to show that Claimant normally performs the work of restoring and testing this particular hot box detector. Indeed, the record is very vague as to exactly what kind of repair work, if any, was performed on the hot box detector. In sum, since the Organization has failed to meet its burden of proof, the Carrier did not violate Rule 5-A-1(h).


The Carrier did not breach the Electronic Technician's classification of work rule because the scope rule covering the Maintainer also covers work pertaining to hot box detection devices although the Maintainer scope rule does not specifically cover work on hot box detector components. Again, because the record contains a dearth of evidence concerning exactly what repair functions were performed on this particular hot box detector, the Board may not simply assume that it was a repair to a component part. Therefore, the Carrier did not violate the applicable classification of work rules.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:



Catherine Loughrin - Interim Secretary to the Board

Dated at Chicago, Illinois, this 20th day of September 1993.