

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 30875
Docket No. MS-30567
95-3-92-3-343

The Third Division consisted of the regular members and in addition Referee Martin F. Scheinman when award was rendered.

PARTIES TO DISPUTE: (J. L. Bright
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(Atchison, Topeka & Santa Fe Railway Company

STATEMENT OF CLAIM: "Claim of the Union that:

(a) Carrier violated the Signalmen's Agreement, particularly Rule 17, when it assigned M. R. Tomlin, a temporary Signal Inspector, to perform Signal Maintainer relief work at Caldwell, Texas, at the close of his temporary assignment, beginning at 4:30 pm, June 15, 1990, instead of assigning senior gang 43 Signalman J. L. Bright. Mr. Tomlin's assignment at Caldwell ended 7:30 am, July 2, 1990.

(b) Carrier should now be required to pay Mr. Bright all regular wages and overtime paid Mr. Tomlin during the assignment outlined in (b) above. Such wages represent lost wages for Mr. Bright because of his loss of work opportunity.

(c) Carrier should reimburse Mr. Bright expenses for meals as follows: Breakfast June 19 through 22 and 26 through 29, 1990, and evening meals June 18 through 21 and 25 through 28, 1990."

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 argues that Carrier improperly assigned a junior employee to perform Signal Maintainer relief work during the period June 15 to July 2, 1990. Claimant contends that when assignments from a signal gang are made that Rule 17 - Detached Service applies. According to Claimant, this requires canvassing of the gang signalmen and assigning the senior willing employee. Carrier disputes Claimant's position and argues, in fact, that Claimant suffered no monetary damages as a result of the assignment to another Signalman.

It is well established that the individual or side making an assertion has the burden of proof. Countless Board Awards have established this principle.

Here, Claimant has failed to meet this burden of proof. As such, we must conclude that the claim be denied.

AWARD

Claim denied.

O R D E R

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 10th day of May 1995.