

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 31634
Docket No. SG-31483
96-3-92-3-970**

The Third Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

(Brotherhood of Railroad Signalmen

PARTIES TO DISPUTE: (

(Terminal Railroad Association of St. Louis

STATEMENT OF CLAIM:

"Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen (BRS) on the Terminal Railroad Association of St. Louis (TRRA):

Claim on behalf of R. L. Hickman, Jr. and S. B. Witthauer for payment of two hours and forty minutes each at the time and one-half rate, and on behalf of C. E. Satterfield for payment of four hours at the time and one-half rate, account Carrier violated the current Signalmen's Agreement, particularly Article V, Section 1, when it utilized junior employees to perform overtime service on September 10, 1991, and denied the Claimants the opportunity to perform the work. Carrier's File No. 013.30. General Chairman's File No. 910924.01. BRS File Case No. 8949-TRRA."

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.

This dispute is somewhat similar to that reviewed in Third Division Award 31633 in that it involves overtime work assigned to employees in Carrier's Construction/Maintenance Gang rather than to other, more senior Signal Maintainers. As in Award 31633, the "facts" are in dispute.

According to the Organization, two Construction/Maintenance Gang employees were assigned to work a total of four hours' overtime on the territories of two Signal Maintainers. The Organization contends that the work assignment was made at either 3:45 P.M. (prior to the end of the shift) or at 4:00 P.M.

According to the Carrier, all employees assigned to the Construction-Maintenance Gang were held over beyond 4:00 P.M. to complete the project on which they were working. The Carrier states that notice of the two required repairs elsewhere were reported on or after 4:00 P.M., which would have been after the Claimants had left the property and thus were unavailable.

With this unresolved conflict, the Board is not able to apply relevant Rules to determine whether a violation occurred in the Carrier's action, and the claim will necessarily be dismissed, without prejudice to the positions of the Organization or the Carrier.

AWARD

Claim dismissed.

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 29th day of August 1996.