

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 31725
Docket No. SG-31432
96-3-93-3-449**

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 on the Terminal Railroad Association of St. Louis (TRRA):

Claim on behalf of R.K. Horn II and E.K. Hubbard for payment of eight hours each at their straight time rate, account Carrier violated the current Signalmen's Agreement when it failed in its obligation to make a reasonable effort to notify the Claimants that the abolishments of their positions had been rescinded following Carrier's lockout of employees beginning June 24, 1992. Carrier's File No. 013-311-14. General Chairman's File No. 920728.01. BRS File Case No. 9114-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 were given due notice of hearing thereon.

Because of a labor dispute with a single Organization, the Carrier notified all its employees that operations would be suspended at 3:00 P.M., June 24, 1992. Such notice was received by the two Claimants, holding positions as Signal Truck Driver. The work cessation continued through June 25. Operations resumed as of 8:00 A.M., June 26.

The Carrier undertook to make telephone contact with the two Claimants shortly after 8:00 A.M., June 26. In each instance, the Carrier's representative reached a young child, with whom a message was left. No other effort was made to reach the Claimants for work that day. The Claimants stated they did not receive the message left with their children. They reported for work thereafter, having sought information about their recall sometime on June 26.

The Carrier later determined to pay for time lost due to the labor dispute to employees who were available for duty. Thus, the Claimants were paid for June 25. They were not paid for June 26, since the Carrier relied on the fact that telephone notice of recall had been provided and because news of legislation ending the strike by the other Organization was "repeatedly being reported on television, radio, and was in all the morning papers."

Having given notice of suspension of operations to all employees, without specific indication as to the length of such suspension, the Carrier was obligated to find reasonable means to advise its employees as to return to work. As argued by the Organization, employees are not required to make their own judgment as to when to report. In the instance of the two Claimants, the Carrier did not undertake notice attempts until after the commencement of the shift. Only one telephone call was made, and it was acknowledged that the message had been left with young children. There is no convincing basis to determine that the Claimants were "hiding out," as charged by the Carrier. Given these specific facts, the Board finds that proper and timely notification was not provided to the two Claimants, and proof is lacking that they failed to make themselves "available" or would not have worked if notified. Since this was the Carrier's test for not paying for lost time, the Claimants should not be denied pay for June 26, as claimed.

AWARD

Claim sustained.

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ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

**NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division**

Dated at Chicago, Illinois, this 25th day of September 1996.