

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 31905  
Docket No. SG-31026  
97-3-92-3-822**

**The Third Division consisted of the regular members and in addition Referee Robert W. McAllister when award was rendered.**

**(Brotherhood of Railroad Signalmen  
PARTIES TO DISPUTE:  
(Houston Belt & Terminal Railway Company**

**STATEMENT OF CLAIM:**

**"Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen (BRS) on the Houston Belt & Terminal Railway Company (HB&T):**

**Claim on behalf of M. A. Parsons for payment of two (2) hours and forty (40) minutes at the overtime rate, account Carrier violated the current Signalmen's Agreement, particularly Rule 305, when it assigned overtime service on November 21, 1991 to a junior employee, depriving the Claimant of a work opportunity. General Chairman's File No. 92-05-H-A. Carrier's File No. 19-92. BRS File Case No. 8734-HB&T."**

**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.**

On November 21, 1991, the Carrier called Signal Maintainer J. Sanders to complete work on a malfunctioning electronic switch. The Claimant herein is senior to Sanders and seeks overtime payment as stated above for the lost work opportunity. The Organization insists seniority is the determining factor in the assignment of overtime when the regular employee is not available.

The Carrier disputes this contention, maintaining that neither Maintainer Sanders nor the Claimant are entitled to additional payment because they are monthly rated employees covered by Rule 602 of the Agreement. In the Carrier's view, the Organization seeks to substitute the word "territory" for the word "position" in Rule 602(c). The Carrier insists the language of Rule 602(c) does not support the Organization's desire to compensate employees working off their territory.

For its part, the Organization believes the Carrier misconstrues the application of Rule 602(c). According to the Organization, had the Claimant been properly assigned, he would have been performing work not encompassed within his regular position and, thereby, entitled to the additional compensation. Essentially, the Organization contends the monthly rate only encompasses work performed on the position to which an employee is assigned and the Carrier cannot require employees to perform additional work without paying additional compensation. The Organization argues Rule 602(g) is an exception to the Rule and, by requiring Signal Maintainers to protect the entire system on a standby basis, clearly implies Maintainers are assigned to specific territories.

Examination of the controlling Agreement does not reveal a clear and unambiguous intent that monthly rated employees who work off their territories are entitled to additional compensation. The fact that both parties have been able to logically advance their interpretation of the relevant provisions implies a substantial degree of ambiguity. IN such a case, this Board has historically looked beyond the language involved and considered factors, such as the parties' historic application of disputed language.

As noted in Third Division Award 31907 the Carrier argued that for almost 30 years, monthly rated Maintainers who work on other territories did so without additional compensation. The record contained a statement from Superintendent R. M. Sanders dated March 17, 1992, wherein he wrote:

"I've been in the HB&T Signal Department for 28 years as a Signalman, Maintainer, Foreman and superintendent during this period of time. A Signal Maintainer's territory has always been the entire terminal, with an area that is considered our primary responsibility. The HB&T terminal is our entire seniority district and we do not have so called assigned territories. Maintainers have always worked around the Terminal, during and after normal hours, and it has not warranted any additional payment, regardless of whether they were in their primary area or not.

The claims that have been received for allegedly working off their territory are contrary to over 28 years of practice on the HB&T."

The Board's findings in Third Division Award 31907 are controlling. It should be noted that in this record the Organization also argued that Rule 305 was applicable. We do not find the Organization's argument to be persuasive because, as noted in the record, the Claimant is a Signal Maintainer and is not considered part of a Signal Gang.

#### AWARD

Claim denied.

#### 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 4th day of March 1997.**