

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 34173
Docket No. SG-34559
00-3-98-3-204**

The Third Division consisted of the regular members and in addition Referee Elizabeth C. Wesman when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(Union Pacific Railroad Company (former Chicago and
(North Western Transportation Company)

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Chicago & North Western Transportation Co. (CNW):

Claim on behalf of D. E. Beck for payment of two hours and 40 minutes at the time and one-half rate, account Carrier violated the current Signalmen’s Agreement, particularly Rules 15(d) and 16 (a), when it called a junior employee instead of the Claimant to perform overtime work on February 22, 1997. Carrier’s File No. 1053435. General Chairman’s File No. K-AV-001. BRS File Case No. 10573-CNW.”

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 February 22, 1997, Claimant D. E. Beck, a Signal Maintainer with headquarters at Tama, Iowa, was on call for an overtime assignment. The Carrier attempted to contact the Claimant on that day for an assignment to install bond wires, to repair a broken rail. After unsuccessful attempts to reach the Claimant by leaving a message on his answering machine at home and calling his pager, the Carrier assigned the overtime work to an employee junior to the Claimant. An appeal was made on behalf of the Claimant by the Organization in a letter dated February 24, 1997. This appeal was denied as were subsequent appeals.

In the case at hand the Organization alleges that the overtime work in question was not an emergency. The Organization asserts that there is no evidence that the work of installing bond wires is anything other than a routine maintenance function. Further, the Organization contends that the Claimant, the senior available employee and the regular assignee on the territory where the work was performed, was ready to be called for overtime work. He was not registered absent and was not away from his point of call or without his pager for more than three hours. Additionally, the Organization asserts that the Claimant was carrying his pager as he was anticipating being called for overtime work. The Organization further contends that the Carrier's admission that they called the wrong pager number for the Claimant does not make the Claimant unavailable.

It is the Carrier's position that it attempted to reach the Claimant for the overtime assignment by leaving a message at his regular point of call, his home phone, and attempting to contact the Claimant by calling his pager three times. While the Carrier acknowledged that it later determined it had an incorrect phone number for the Claimant's pager, the Carrier contends that the Claimant regularly changes his pager phone number and that it is not the duty of the Carrier to seek out updated pager numbers from the Claimant. The Carrier further contends that Rule 15(d) does not apply to Maintainer's, but to signal shop positions, which excludes Maintainer positions. The Carrier also contends that Rule 16(a) does not allow the Claimant to receive minimum call pay for a missed call, due to his failure to correct his pager number.

At issue in the case at hand is whether or not the Carrier violated Rules 15(d) and 16(a) when it did not use the senior employee on call, the Claimant, to perform an emergency assignment on the day in question. These Rules read in pertinent part:

“RULE 15 - WORK OUTSIDE REGULAR HOURS

- (d) When overtime service is required of a part of a group of employees who work together, the senior qualified available employees of the class involved shall have preference to such overtime if they so desire . . . This Section (d) and example apply to crew and signal shop.

RULE 16 - SUBJECT TO CALL

- (a) Signal Maintainers recognize the possibility of emergencies in the operation of the railroad, and will notify the person designated by the management of regular point of call. When such employees desire to leave such a point of call for a period of time in excess of three (3) hours, they will notify the person designated by the management that they will be absent, about when they will return, and, when possible, where they may be found. Unless registered absent, the regular assignees will be called.”

The key issue is whether or not the Carrier fulfilled its obligation to contact the Claimant to perform the overtime work in question before calling a junior employee. The Organization contends that Rule 16 - Subject to Call provides that an employee will be called within a three-hour period, unless registered absent. In this case the Organization asserts that the Claimant was not gone for more than three hours before the junior employee was called. The record indicates that four attempts were made by the Carrier to contact the Claimant at half hour intervals over a two-hour period.

The Carrier contends that Rule 16 does not preclude selection of another employee to handle a call for an assignment, especially a call that is of an emergency nature which, according to the Carrier, this was. Despite the Organization’s contention that the work in question did not constitute “emergency work,” it was not unreasonable under the circumstances for the Carrier to contact the next available employee in the utter absence of any response from the Claimant.

As the Carrier has noted, the provisions of Rule 15(d) specifically include only crew and signal shop employees. Further, while the Organization asserts that it is the Carrier’s responsibility to maintain updated phone numbers for employees, there is no

evidence on the record to indicate that the most recent phone number the Claimant had provided to the Carrier was correct. Accordingly, the Organization has not met its burden of persuasion in this matter.

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 20th day of July, 2000.