

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 34222
Docket No. SG-35112
00-3-98-3-863

The Third Division consisted of the regular members and in addition Referee Margo R. Newman when award was rendered.

(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(CSX Transportation, Inc. (former Seaboard Coast Line
(Railroad Company)

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the CSX Transportation Company (former Seaboard Coast Line):

Claim on behalf of C.E. Stone for payment of 16 hours at the time and one-half rate, account Carrier violated the current Signalman’s Agreement, particularly Agreements S-069-87 and 6018-15, when it used a foreman to take the place of a signalman in performing work on October 18 and 25, 1997. Carrier’s File No. 15(98-90). General Chairman’s File No. SCL/50/98. BRS File Case No. 10700-SCL.”

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.

determined that on the claim dates, it required a Foreman on the second shift. Agreement 6018-15 permits said Foreman to be a "working foreman," which means that he can perform Signalman work as well as his Foremen's duties. The only caveat is that such working Foreman "will not be used to the exclusion of other employees." On each claim date there was at least one Signalman assigned along with the working Foreman. Thus, since the Carrier did not use the working Foremen to the exclusion of Signalmen, it did not violate Agreement 6018-15.

The Board has held that it is within the Carrier's prerogative to determine its manpower needs, including when, where and by whom the work will be performed. See Third Division Awards 23551 and 19596. The Organization failed to prove that the Carrier had no need for a Foreman on the second shift on each of the claim dates, and that the Claimant should have been called in his stead on each occasion. Because at least one Signalman was called to work along with the working Foreman on each of the claim dates, the claim must be denied.

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 23rd day of August, 2000.