

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 36082
Docket No. SG-35951
02-3-00-3-26**

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: (
(National Railroad Passenger Corporation (Amtrak)**

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the National Railroad Passenger Corp. (NRPC-S):

Claim on behalf of D. Morett, for payment of eleven hours at the time and one-half rate of pay, account Carrier violated the current Signalmen’s Agreement, particularly Rule 30 (a), and the Shop Overtime Preference List, when on September 27, 1998, it permitted junior employees to perform overtime service and deprived the Claimant of the opportunity to perform this work. Carrier File No. NEC-BRS(S)-SD-820. General Chairman’s File No. RM3230-106-0299. BRS File Case No. 11084-NRPC-S.”

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.

This claim filed on November 4, 1998 alleges that the Carrier failed to call the Claimant, a Signal Shop Maintainer, for overtime work at the new signal shop on

September 27, 1998 and assigned such work to two junior Maintainers, in violation of Rule 30(a) and the shop overtime preference list. It seeks 11 hours pay for the Claimant at the time and one-half rate for this missed overtime opportunity.

The pertinent section of Rule 30 and the Shop Overtime Preference List are set forth below:

"RULE 30 - OVERTIME PREFERENCE - CONTINUOUS WITH TOUR OF DUTY

- (a) When it is known in advance of the end of a tour of duty that a portion of a gang is to be worked on a subsequent tour of duty (not part of their regular assignment) or continuous with the current tour of duty, those with the greatest seniority in the class who were actually performing the work prior to the overtime will be given the first opportunity for the overtime.

SHOP OVERTIME PREFERENCE LIST

Men assigned to project inclusive (wiring group) Rule 30(a) (Entire Shop) Mechanics in Seniority Order Rule 30(b) Assistant Foreman in Seniority Order Assistant Signalman and Trainees"

The record reveals that prior to September 27, 1998, the Maintainers used for the overtime assignment in dispute, C. Gery and L. Siperak, were assigned to perform work readying a new building for the signal shop to move into, and for several weeks coordinated their work with the schedule of the contractor also working in the new signal shop building. The Claimant's normal duties during this period involved the repair and rehabilitation of signal equipment at the old signal shop. On one day only, Friday, September 25, 1998, the Claimant assisted Gery and Siperak in the assembly of a paint booth at the new signal shop. Because the assembly was not completed that day, overtime was required on Sunday, September 27, 1998, in order to conform to the contractor's work schedule. This overtime assignment to Gery and Siperak, rather than the Claimant, is being disputed by this claim.

The Organization argues that the Claimant, being senior to both Gery and Siperak, was entitled to the overtime in dispute, as he had worked on the job on the regular work day prior to the scheduled overtime. The Organization explained that the claim was properly filed by the Local Chairman and progressed by the General Chairman once the Local

Chairman passed away. The Organization contends that the appropriate rate for compensation for a lost overtime opportunity is the overtime rate of pay, citing Third Division Award 22569.

The Carrier initially contends that the claim is procedurally defective under Rule 47, because it was not filed by either the Claimant or a duly accredited representative of the Organization. With respect to the merits, the Carrier argues that the overtime was properly assigned in accord with Rule 30(a) to the Maintainers who were assigned to the new signal shop project on a regular basis, rather than the Claimant, who only helped out at this project on one day, and was regularly assigned elsewhere. It also asserts that the claim is excessive, because it seeks pay for time not worked at the overtime rate.

A careful review of the record convinces the Board that we need not decide the procedural issue because the Organization failed to sustain its burden of proving a violation of Rule 30 or the Shop Overtime Preference List in this case. Both recognize the superior right of employees regularly assigned to a particular project to preplanned overtime on that project. The fact that the Claimant worked away from his normal assignment for one day assisting the Maintainers regularly assigned to ready the new signal shop building does not give him a demand right to scheduled overtime on that job based on seniority under either Rule 30 or the Shop Overtime Preference List. Accordingly, the claim will 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 18th day of June, 2002.