

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 36163
Docket No. SG-35827
02-3-99-3-826**

The Third Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(Union Pacific Railroad Company)

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Union Pacific Railroad Co. (former Southern Pacific):

Claim on behalf of F. E. Horvath, for payment of five hours and 20 minutes at the time and one-half rate, account Carrier violated the current Signalmen’s Agreement, particularly Rule 13, when it called another signal maintainer to respond to a signal failure on the Claimant’s assigned territory, without giving the Claimant an opportunity to respond to the call. Carrier’s File No. 1166385. General Chairman’s File No. SWGC-1987. BRS File Case No. 11076-SP.”

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.

The Claimant contends that the Carrier failed to call him in proper order for overtime service and seeks payment therefor. The Carrier’s report sheet shows the Claimant was called at 7:02 P.M. on October 17, 1998 on both his home telephone and his telephone paging service, with no response. There is no reasonable basis to doubt the accuracy of the Carrier’s records.

The Carrier then called other employees beginning at 7:06 P.M., thus filling the vacancy.

The Organization cites in the Claimant's defense a Note to Rule 13, reading as follows:

"In the event a Signal Maintainer elects to use a telephone pager, such number will be furnished to the Company and acceptance of a call must be confirmed within ten (10) minutes of time paged."

The Organization notes that the Carrier did not give the Claimant ten minutes to respond before calling another employee. This is without significance because the Claimant did not respond to the call, either within ten minutes or thereafter.

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 August 2002.