

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 36403
Docket No. SG-36028
03-3-00-3-135

The Third Division consisted of the regular members and in addition Referee James E. Mason when award was rendered.

**(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(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 (C&NW):

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 the Memorandum of Agreement dated February 1, 1983, when on August 2, 1998, it allowed a District Signal Foreman to repair a dark signal at CPA 90, and deprived the Claimant of the opportunity to perform this work. Carrier’s File No. 1163791. General Chairman’s File No. 8cma2009.1. BRS File Case No. 11256-C&NW.”

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 case involved the same Claimant, same claim date, same District Signal Foreman, same alleged Rule violation and same basic arguments by both of the parties as is found in Third Division Award 36402. The sole difference is found in the amount of the penalty claim and the location of the service performed by the District Signal Foreman.

From a review of the case file, we find that while the District Signal Foreman was en route from Cedar Rapids, Iowa, to correct a malfunctioning crossing gate at Dewitt, Iowa, which was the cause of the controversy in Third Division Award 36402, he was informed of a dark signal at C.P.A. 90 located at Fairfax, Iowa. He stopped at C.P.A. 90, replaced a burned out bulb in the signal and proceeded on to correct the malfunctioning crossing gate.

It is not necessary for the Board to repeat the facts, assertions and conclusions that are set forth in Award 36402. They are equally applicable in this case and are by reference made a part of this Award.

The claim as presented is 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 February 2003.