

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 36567
Docket No. SG-36240
03-3-00-3-453**

The Third Division consisted of the regular members and in addition Referee Nancy F. Eischen when award was rendered.

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

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 S. A. Feyerherm for payment of the difference between the rates of pay between a Leader Maintainer and that of a Crew Foreman beginning on January 4, 1999 and continuing and to require Carrier to advertise a position of Gang Foreman in the Missouri Valley, Iowa area for seniority choice. Account Carrier violated the current Signalmen’s Agreement, particularly Rules 2, 17 and 39, when on January 4, 1999 Carrier assigned two signal maintainers to the Missouri Valley territory, without complying with Agreement provisions to assign a signal foreman to this territory when the total number reached five. Carrier’s File No. 1193722. General Chairman’s File No. 9c028203. BRS File Case No. 11308-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.

By letter dated April 27, 1999, the Organization filed a claim on behalf of Leader Signal Maintainer S. A. Feyerherm seeking payment of the difference between the rates of pay between a Leader Signal Maintainer and that of a Crew Foreman beginning on January 4, 1999. The Organization further demanded that the Carrier advertise a position of Gang Foreman at Missouri Valley, Iowa.

In its June 22, 1999 denial, the Manager Engineering Resources noted:

“... I understand that at Missouri Valley there is not a gang working. There may be more than one person that works out of Missouri Valley, but they are all working as separate individuals and not working as a gang. They all have separate gang numbers. Because of the above your claim is null and void.”

The Carrier further maintained that the Organization's claim was untimely.

On July 10, 1999, the Organization informed the Manager Engineering Resources that his decision was “unacceptable.” Thereafter, on August 18, 1999 the Organization appealed the claim to the Director Labor Relations who reiterated the Carrier's denial in a letter dated October 11, 1999. The issue was conferenced on January 25, 2000 without change in either parties' position and is now before the Board for adjudication.

At the outset, the Carrier maintains that this claim was untimely presented and is without merit. Rule 52 - Time Limits - states, in pertinent part:

“All claims or grievances must be presented in writing by or on behalf of the employee involved to the officer of the Carrier authorized to receive same, within 60 days from the date of the occurrence on which the claim or grievance is based.”

The Organization alleges that the date of occurrence was January 4, 1999, however, the Local Chairman's letter of claim was postmarked April 28, 1999. Clearly, this is outside of the time limits set forth in Rule 52 noted supra. Premised upon the Organization's failure to deny or refute the Carrier's time limit assertion during handling on the property, this claim was untimely presented and must be dismissed.

AWARD

Claim dismissed.

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 16th day of June 2003.