

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 36952
Docket No. SG-36911
04-3-01-3-464

The Third Division consisted of the regular members and in addition Referee Robert Perkovich when award was rendered.

**(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(Kansas City Southern Railway Company**

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Kansas City Southern Railroad (KCS):

Claim on behalf of all members of BRS Local 185 for an unjust treatment hearing. Account Carrier violated the current Signalmen’s Agreement, particularly Rule 49, when on July 14, 24 and 31, 2000 it conducted department-wide reasonable suspicion/cause drug and alcohol breath and urine sample tests. Carrier’s File No. K6005413. General Chairman’s File No. 004149. BRS File Case No. 11758-KCS.”

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.

After a number of Signal Department employees tested positive the Carrier conducted drug and alcohol tests of all Signal Department employees. Thereafter, the Organization filed a written request under Rule 49 asking for an Unjust Treatment Hearing. The Carrier declined the request.

Rule 49, the governing Rule in this dispute, reads as follows:

“An employee who considers himself otherwise unjustly treated shall have the same right of hearing and appeal, as provided above, if written request is made to his immediate supervisor within ten (10) days of the cause of complaint.”

The proper disposition of this claim lies in the language of Rule 49. Simply put, Rule 49 clearly and unambiguously provides the right of an Unjust Treatment Hearing only to “an” employee and not to employees as a class. Thus, when the Organization filed its request for an Unjust Treatment Hearing, it did so for “all” employees when only those employees as individuals hold the right to a Hearing.

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 22nd day of March 2004.