

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 37178
Docket No. SG-37693
04-3-03-3-43

The Third Division consisted of the regular members and in addition Referee Martin H. Malin when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(National Railroad Passenger Corporation (Amtrak))

STATEMENT OF CLAIM:

"Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Amtrak (NRPC):

Claim on behalf of B. T. Fessey, for six hours at his time and one-half rate of pay, account Carrier violated the current Signalmen's Agreement, particularly Appendix B-3, when it used an employee, who had not performed any work on the Claimant's assigned territory, for overtime service on July 10, 2001, at mile post 30.1, and deprived the Claimant of the opportunity to perform this work. Carrier's File No. NEC-BRS(S)-SD-946. General Chairman's File No. JY321087-102021. BRS File Case No. 12471-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.

The instant claim asserts that the Claimant should have been called for overtime that was performed by a junior Signal Maintainer on July 10, 2001, to remove and subsequently restore track signals and dragging equipment detectors in the vicinity of Milepost 30.1 between Edison and New Brunswick, New Jersey. During handling on the property, the Carrier contended that the junior employee was performing the work during his regular hours, whereas the Claimant was not, and, therefore, the junior employee was properly offered the overtime in accordance with Appendix B-3. The Carrier produced a copy of the Supervisor's Daily Log in support of its position. The Organization provided no evidence that would establish otherwise. Accordingly, the claim must be denied because the Organization failed to prove a violation of the Agreement.

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 28th day of September 2004.