

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 37191
Docket No. SG-38032
04-3-03-3-470

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 National Railroad Passenger Corp.:

Claim on behalf of F. T. Wszolek, for 4 hours at the pro rata rate of time and one-half, account Carrier violated the current Signalmen's Agreement, particularly Appendix B-3, paragraph B, and Appendix B-4, Call Out Procedures for the Metropolitan Division to which the Claimant is a part of, when on June 16, 2002, Carrier called a Roster 11 employee to perform work on the Claimant's district. Claimant is on Roster 2. Carrier's actions deprived the Claimant of this work opportunity. Carrier's File No. NEC-BRS(S)-SD-980. General Chairman's File No. JY32101018-1020211. BRS File Case No. 12753-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.

On Saturday, June 15, 2002, the 430 W. Signal at Penn Station, New York, malfunctioned. It was necessary to obtain a signal dump to review the signal's prior performance. The Carrier called an Electronic Technician headquartered at Penn Station on Sunday, June 16, 2002, to perform the signal dump. The Organization contends that the Carrier should have called the Claimant, who was headquartered at Nassau Tower, in Princeton, New Jersey, and who had greater seniority than the employee who was called. Both Nassau Tower and Penn Station are within the New York Metropolitan Division and the Claimant's and the other Technician's positions were advertised for the entire division.

At issue is the meaning of Appendix B-4, paragraph 6, which provides:

"The Signal Maintainer assigned to that position in the section involved will, if he has added his name in accordance with Item 5 above, be listed first on the calling list for his section. If more than one Signal Maintainer have the same responsibilities and territory, they will be listed in class seniority order."

Specifically at issue is whether the words "section involved" refer to the entire New York Metropolitan Division, as argued by the Organization. The Board believes that the parties intended that the word "section" be interpreted in light of the circumstances. It would not make sense for the first call for work at Penn Station to be made to an employee in another part of the division which could be hours away. Rather, we believe that under the circumstances, the parties intended "section involved" to refer to employees regularly assigned at Penn Station. Accordingly, we hold that the Carrier acted in accordance with Appendix B-4 when it called the technician who was regularly assigned to Penn Station.

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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.